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Code (See p. 446)

**PUBLIC COMMENTS
REQUESTED:**

Under [HEA 1135](#) (P.L.215-2005), after July 1, 2006, the Indiana Register will be published only on the Internet and on a more frequent basis. Written comments and suggestions concerning these changes may be sent to:

LEGISLATIVE SERVICES AGENCY
ATTN.: STEVE BARNES
ONE NORTH CAPITOL, SUITE 325
INDIANAPOLIS, IN 46204

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RELATION OF THE INDIANA REGISTER TO THE INDIANA ADMINISTRATIVE CODE

The Indiana Register is an official monthly publication of the state of Indiana. The Indiana Legislative Council publishes the full text of proposed rules, final rules, and other documents, such as executive orders and attorney general's opinions, in the Indiana Register in the order in which the Indiana Legislative Council receives the documents.

The Indiana Administrative Code is an official annual publication of the state of Indiana. It codifies the current general and permanent rules of state agencies in subject matter order.

The Indiana Register acts as a source of information about the rules being proposed by state agencies and acts as an "advance sheet" to the Indiana Administrative Code. With few exceptions, an agency may not adopt a rule, i.e., a policy statement having the force of law, without publishing a substantially similar proposed version in the Indiana Register. Although a rule becomes effective without publication in the Indiana Register, an agency must file an adopted and approved rule with the Indiana Legislative Council. The Council publishes these final rules in the Indiana Register.

RETENTION SCHEDULE

A person must consult the following publications to find the current rules of state agencies:

- (1) 2005 Indiana Administrative Code (CD-ROM version).
- (2) Volumes 28 and 29 of the Indiana Register (CD-ROM version).

The Indiana Administrative Code and Indiana Register are distributed in CD-ROM format only. Both are also accessible at www.in.gov/legislative/ic_iac/.

The 2004 Edition of the Indiana Administrative Code and other volumes of the Indiana Register may be discarded. (Please consider recycling.)

JUDICIAL NOTICE AND CITATION FORM

IC 4-22-9 provides for the judicial notice of rules published in the Indiana Register or the Indiana Administrative Code. Subject to any errata notice that may affect a rule, the latest published version of a final rule is prima facie evidence of that rule's validity and content.

Cite to a current general and permanent rule by Indiana Administrative Code citation, regardless of whether it has been published in a supplement to the Indiana Administrative Code. For example, cite the entire current contents of title 312 as "Title 312 of the Indiana Administrative Code," cite the entire current contents of the third article in title 312 as "312 IAC 3," cite the entire current contents of the fourth rule in article three as "312 IAC 3-4," and cite part or all of the current contents of the second section in rule four as "312 IAC 3-4-2." IC 4-22-9-6 provides that a citation in this form contains later adopted amendments. Cite a noncodified rule provision by LSA document number, SECTION number, and Indiana Register citation to the page at which the cited text begins. If a reference to a particular version of a rule or a page in the Indiana Register is appropriate, cite the volume, page, and year of publication as "25 Ind. Reg. 120 (2002)." A shorter Indiana Register citation form is "25 IR 120."

PRINTING CODE

This style type is used to indicate that substantive text is being inserted by amendment into a rule, and ~~this style type~~ is used to indicate that substantive text is being eliminated by amendment from a rule. ~~This style type~~ is replaced by a single large "X" to show the elimination of a form or other piece of artwork. **This style type** is used to indicate a rule is being added. *This style type* and **this style type** also are used to highlight nonsubstantive annotations to a rule and to indicate that an entry in a reference table or the index concerns a final rule.

REFERENCE TABLES AND INDEX

The page location of rules and other documents printed in the Indiana Register may be found by using the tables and index published in the Indiana Register. A citation listing of the general and permanent rules affected in a volume and a cumulative index are published in each issue. Cumulative tables that cite executive orders, attorney general's opinions, and other nonrule policy documents printed in a calendar year are published quarterly.

FILING AND PUBLISHING SCHEDULE

NOTICE AND PUBLICATION SCHEDULE. The Legislative Services Agency publishes documents filed by 4:45 p.m. on the tenth day of a month (no later than the twelfth day of a month, excluding holidays or weekends) in the following month's Indiana Register according to the schedule below:

PUBLICATION SCHEDULE

Closing Dates:	Publication Dates:	Closing Dates:	Publication Dates:
October 11, 2005	November 1, 2005	April 10, 2006	May 1, 2006
November 10, 2005	December 1, 2005	May 10, 2006	June 1, 2006
December 9, 2005	January 1, 2006	June 9, 2006	July 1, 2006
January 10, 2006	February 1, 2006	After July 1, 2006, publication dates will be determined on an individual document basis.	
February 10, 2006	March 1, 2006		
March 10, 2006	April 1, 2006		

Documents will be accepted for filing on any business day from 8:00 a.m. to 4:45 p.m.

AROC NOTICES: Under IC 2-5-18-4, the Administrative Rules Oversight Committee is established to oversee the rules of any agency not listed in IC 4-21.5-2-4. As a result, certain notices to the AROC are required and are printed in the Indiana Register.

CORRECTIONS: IC 4-22-2-38 authorizes an agency to correct typographical, clerical, or spelling errors in a final rule without initiating a new rulemaking procedure. Correction notices are printed on errata pages in the Indiana Register.

EFFECTIVE DATE: IC 4-22-2-36 provides that, unless a later date is specified in the rule, a rule becomes effective thirty (30) days after filing with the Secretary of State.

EMERGENCY RULES: IC 4-22-2-37.1 provides summary rulemaking procedures for certain specified categories of rules.

INCORPORATION BY REFERENCE: IC 4-22-2-21 requires that a copy of matters that are incorporated by reference into a rule must be filed with the Attorney General, the Governor, and the Secretary of State along with the text of the incorporating final rule.

NONRULE POLICY DOCUMENTS: IC 4-22-7-7 requires that any nonrule document that interprets, supplements, or implements a statute and that the issuing agency may use in conducting its external affairs must be filed with the Legislative Services Agency and published in the Indiana Register.

NOTICE OF INTENT TO ADOPT A RULE: IC 4-22-2-23 requires an agency to publish a Notice of Intent to Adopt a Rule at least thirty (30) days before publication of the proposed rule.

PROMULGATION PERIOD: In order to be effective, the final version of an adopted rule must be approved by the Attorney General and the Governor within one (1) year after the date that the notice of intent is published. The final rule must then be filed with the Secretary of State.

PUBLIC HEARINGS: IC 4-22-2-24 requires that the public hearing on a proposed rule be scheduled at least twenty-one (21) days after a notice of the hearing is published in the Indiana Register and in a newspaper of general circulation in Marion County.

RULES READOPTION: IC 4-22-2.5 provides that a rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date.

State Agencies

AGENCY	TITLE NUMBER	ALPHABETICAL LIST AGENCY	TITLE NUMBER
Accountancy, Indiana Board of	872	† Human Service Programs, Interdepartmental Board for the Coordination of	490
Accounts, State Board of	20	† Industrial Board of Indiana	630
Adjutant General	270	Information Technology Oversight Commission, State	28
Administration, Indiana Department of	25	Inspector General, Office of the	42
† Administrative Building Council of Indiana	660	Insurance, Department of	760
† Aeronautics Commission of Indiana	110	Labor, Department of	610
† Aging and Community Services, Department on	450	Land Surveyors, State Board of Registration for	865
† Agricultural Development Corporation, Indiana	770	Law Enforcement Training Board	250
† Agricultural Experiment Station	350	Library and Historical Board, Indiana	590
† Agriculture, Commissioner of	340	† Library Certification Board	595
† Agriculture, Commissioner of	375	Local Government Finance, Department of	50
† Air Pollution Control Board	325.1	Lottery Commission, State	65
Air Pollution Control Board	326	Manufactured Home Installer Licensing Board	879
† Air Pollution Control Board of the State of Indiana	325	† Medical and Nursing Distribution Loan Fund Board of Trustees, Indiana	580
Alcohol and Tobacco Commission	905	Medical Licensing Board of Indiana	844
Amusement Device Safety Board, Regulated	685	Mental Health and Addiction, Division of	440
Animal Health, Indiana State Board of	345	Meridian Street Preservation Commission	925
Architects and Landscape Architects, Board of Registration for	804	Motor Vehicles, Bureau of	140
Athletic Trainers Board, Indiana	898	† Natural Resources, Department of	310
Attorney General for the State, Office of	10	Natural Resources Commission	312
Auctioneer Commission, Indiana	812	Nursing, Indiana State Board of	848
Barber Examiners, Board of	816	Occupational Safety Standards Commission	620
Boiler and Pressure Vessel Rules Board	680	Optometric Legend Drug Prescription Advisory Committee, Indiana	857
Boxing Commission, State	808	Optometry Board, Indiana	852
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Children's Health Insurance Program, Office of the	407	Personnel Department, State	31
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Chiropractic Examiners, Board of	846	Pharmacy, Indiana Board of	856
Civil Rights Commission	910	Plumbing Commission, Indiana	860
† Clemency Commission, Indiana	230	Podiatric Medicine, Board of	845
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† Education, Commission on General	510	Safety Review, Board of	615
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† Election Board, State	15	Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board	839
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† Environmental Management Board, Indiana	320	Teachers' Retirement Fund, Board of Trustees of the Indiana State	550
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Grain Buyers and Warehouse Licensing Agency, Indiana	824	† Violent Crime Compensation Division	480
Grain Indemnity Corporation, Indiana	825	† Vocational and Technical Education, Indiana Commission on	572
† Hazardous Waste Facility Site Approval Authority, Indiana	323	† Wage Adjustment Board	635
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Health Facilities Council, Indiana	412	† Watch Repairing, Indiana State Board of Examiners in	892
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Housing Finance Authority, Indiana	930		

† Agency's rules are expired, repealed, transferred, or otherwise voided.

NUMERICAL LIST

State Agencies

TITLE NUMBER

TITLE NUMBER

GENERAL GOVERNMENT

- 10 Office of Attorney General for the State
- 11 Consumer Protection Division of the Office of the Attorney General
- †15 State Election Board
- 18 Indiana Election Commission
- 20 State Board of Accounts
- 25 Indiana Department of Administration
- 28 State Information Technology Oversight Commission
- †30 State Personnel Board
- 31 State Personnel Department
- 33 State Employees' Appeals Commission
- 35 Board of Trustees of the Public Employees' Retirement Fund
- 40 State Ethics Commission
- 42 Office of the Inspector General
- 45 Department of State Revenue
- 50 Department of Local Government Finance
- 52 Indiana Board of Tax Review
- 55 Department of Commerce
- 58 Enterprise Zone Board
- 60 Oversight Committee on Public Records
- 62 Office of the Public Access Counselor
- 65 State Lottery Commission
- 68 Indiana Gaming Commission
- †70 Indiana Horse Racing Commission
- 71 Indiana Horse Racing Commission
- 75 Secretary of State
- 80 State Fair Commission
- 85 Budget Agency

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- 105 Indiana Department of Transportation
- †110 Aeronautics Commission of Indiana
- †120 Department of Highways
- 130 Indiana Port Commission
- 135 Indiana Finance Authority
- 140 Bureau of Motor Vehicles
- †145 Reciprocity Commission of Indiana
- †150 Office of Traffic Safety
- †160 Department of Vehicle Inspection
- 170 Indiana Utility Regulatory Commission

CORRECTIONS, POLICE, AND MILITARY

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- 205 Indiana Criminal Justice Institute
- 207 Coroners Training Board
- 210 Department of Correction
- 220 Parole Board
- †230 Indiana Clemency Commission
- 240 State Police Department
- 250 Law Enforcement Training Board
- 260 State Department of Toxicology
- 270 Adjutant General
- 280 Division of Preparedness and Training
- 290 State Emergency Management Agency

NATURAL RESOURCES, ENVIRONMENT, AND AGRICULTURE

- 305 Indiana Board of Licensure for Professional Geologists
- 307 Indiana Board of Registration for Soil Scientists
- †310 Department of Natural Resources
- †311 State Soil and Water Conservation Committee
- 312 Natural Resources Commission
- 315 Office of Environmental Adjudication
- †320 Indiana Environmental Management Board
- †320.1 Solid Waste Management Board
- †323 Indiana Hazardous Waste Facility Site Approval Authority
- †325 Air Pollution Control Board of the State of Indiana
- †325.1 Air Pollution Control Board
- 326 Air Pollution Control Board
- 327 Water Pollution Control Board
- 328 Underground Storage Tank Financial Assurance Board
- 329 Solid Waste Management Board
- †330 Stream Pollution Control Board of the State of Indiana
- †330.1 Water Pollution Control Board
- †340 Commissioner of Agriculture
- †341 Indiana Standardbred Board of Regulations
- 345 Indiana State Board of Animal Health
- †350 Agricultural Experiment Station
- 355 State Chemist of the State of Indiana
- 357 Indiana Pesticide Review Board
- 360 State Seed Commissioner
- 365 Creamery Examining Board
- 370 State Egg Board
- 375 Commissioner of Agriculture

HUMAN SERVICES

- 405 Office of the Secretary of Family and Social Services
- 407 Office of the Children's Health Insurance Program
- 410 Indiana State Department of Health
- 412 Indiana Health Facilities Council
- 414 Hospital Council
- 415 Commission on Forensic Sciences
- †430 Developmental Disabilities Residential Facilities Council
- 431 Community Residential Facilities Council
- 440 Division of Mental Health and Addiction

- †450 Department on Aging and Community Services
- 460 Division of Disability, Aging, and Rehabilitative Services
- 465 Department of Child Services
- 470 Division of Family Resources
- †480 Violent Crime Compensation Division
- †490 Interdepartmental Board for the Coordination of Human Service Programs

EDUCATION AND LIBRARIES

- †510 Commission on General Education
- 511 Indiana State Board of Education
- 514 Indiana School for the Deaf Board
- 515 Advisory Board of the Division of Professional Standards
- †520 Commission on Textbook Adoptions
- †530 Commission on Teacher Training and Licensing
- 540 Indiana Education Savings Authority
- 550 Board of Trustees of the Indiana State Teachers' Retirement Fund
- 560 Indiana Education Employment Relations Board
- 570 Indiana Commission on Proprietary Education
- †572 Indiana Commission on Vocational and Technical Education
- 575 State School Bus Committee
- †580 Indiana Medical and Nursing Distribution Loan Fund Board of Trustees
- 585 State Student Assistance Commission
- 590 Indiana Library and Historical Board
- †595 Library Certification Board

LABOR AND INDUSTRIAL SAFETY

- 610 Department of Labor
- 615 Board of Safety Review
- 620 Occupational Safety Standards Commission
- †630 Industrial Board of Indiana
- 631 Worker's Compensation Board of Indiana
- †635 Wage Adjustment Board
- †640 Indiana Unemployment Insurance Board
- †645 Department of Employment and Training Services
- 646 Department of Workforce Development
- †650 State Fire Marshal
- 655 Board of Firefighting Personnel Standards and Education
- †660 Administrative Building Council of Indiana
- †670 Elevator Safety Board
- 675 Fire Prevention and Building Safety Commission
- 680 Boiler and Pressure Vessel Rules Board
- 685 Regulated Amusement Device Safety Board

BUSINESS, FINANCE, AND INSURANCE

- 710 Securities Division
- 750 Department of Financial Institutions
- 760 Department of Insurance
- 762 Indiana Political Subdivision Risk Management Commission
- †770 Indiana Agricultural Development Corporation

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- 804 Board of Registration for Architects and Landscape Architects
- 808 State Boxing Commission
- 812 Indiana Auctioneer Commission
- 816 Board of Barber Examiners
- 820 State Board of Cosmetology Examiners
- 824 Indiana Grain Buyers and Warehouse Licensing Agency
- 825 Indiana Grain Indemnity Corporation
- 828 State Board of Dentistry
- 830 Indiana Dietitians Certification Board
- 832 State Board of Funeral and Cemetery Service
- 836 Indiana Emergency Medical Services Commission
- 839 Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board
- 840 Indiana State Board of Health Facility Administrators
- 844 Medical Licensing Board of Indiana
- 845 Board of Podiatric Medicine
- 846 Board of Chiropractic Examiners
- 848 Indiana State Board of Nursing
- 852 Indiana Optometry Board
- 856 Indiana Board of Pharmacy
- 857 Indiana Optometric Legend Drug Prescription Advisory Committee
- 858 Controlled Substances Advisory Committee
- 860 Indiana Plumbing Commission
- 862 Private Detectives Licensing Board
- 864 State Board of Registration for Professional Engineers
- 865 State Board of Registration for Land Surveyors
- 868 State Psychology Board
- 872 Indiana Board of Accountancy
- 876 Indiana Real Estate Commission
- 878 Home Inspectors Licensing Board
- 879 Manufactured Home Installer Licensing Board
- 880 Speech-Language Pathology and Audiology Board
- †884 Board of Television and Radio Service Examiners
- 888 Indiana Board of Veterinary Medical Examiners
- †892 Indiana State Board of Examiners in Watch Repairing
- 896 Board of Environmental Health Specialists
- 898 Indiana Athletic Trainers Board

MISCELLANEOUS

- 905 Alcohol and Tobacco Commission
- 910 Civil Rights Commission
- 915 Veterans' Affairs Commission
- 920 Indiana War Memorials Commission
- 925 Meridian Street Preservation Commission
- 930 Indiana Housing Finance Authority

†Agency's rules are expired, repealed, transferred, or otherwise voided.

Final Rules

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

LSA Document #05-25(F)

DIGEST

Amends 25 IAC 5-3-2, 25 IAC 5-3-5, 25 IAC 5-3-6, 25 IAC 5-4-1, 25 IAC 5-4-2, and 25 IAC 5-6-2, relating to rules governing the division for minority and women's business enterprise development, by adding and amending provisions relating to applications for certification as an MBE or WBE, including those necessary and appropriate to comply with the directives set forth in Executive Order 05-11, amending provisions relating to control determinations and other factors considered for certifications, procedures governing denial or revocation of certification, review of department certifications, and monitoring of subcontractor participation. Makes other technical and clerical changes. Effective 30 days after filing with the Secretary of State.

25 IAC 5-3-2
25 IAC 5-3-5
25 IAC 5-3-6

25 IAC 5-4-1
25 IAC 5-4-2
25 IAC 5-6-2

SECTION 1. 25 IAC 5-3-2 IS AMENDED TO READ AS FOLLOWS:

25 IAC 5-3-2 Application for certification as an MBE or a WBE

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-14-3-4; IC 5-22

Sec. 2. (a) The enterprise seeking certification as an MBE or a WBE shall submit its application on the form or forms approved by the department, accompanied by all requested documentation.

(b) An enterprise seeking certification as an MBE or a WBE has the burden of demonstrating that it meets the requirements of this rule concerning ownership and control by qualifying members.

(c) The individual signing the application for certification shall be a qualifying member. The qualifying member or members are those whose participation is relied upon to meet the ownership and control requirements, and each shall certify as to his or her status as a qualifying member. The qualifying member signing the application for certification for not-for-profit enterprise must be the highest-ranking official working in the enterprise on a day-to-day basis.

(d) An ~~enterprises~~ **enterprise** seeking MBE or WBE certification shall cooperate fully with the department's requests for information and documentation relevant to the certification process. Failure to cooperate fully may result in denial of MBE or WBE certification.

(e) An enterprise seeking MBE or WBE certification has an affirmative obligation to disclose all material and relevant information affecting ~~that's that~~ enterprise's eligibility for certification. Any material misrepresentation or omission may: (1) be grounds for denial of certification; or ~~may~~ (2) result in the issuance of an order to show cause why ~~such~~ **the** certification should not be revoked.

(f) All documents submitted in connection with an application for certification as an MBE or a WBE are subject to the Indiana Access to Public Records Act, IC 5-14-3. The department will maintain as confidential any: (1) tax returns; ~~other~~ (2) financial information; and (3) trade secret information; as authorized under ~~Indiana Code section IC 5-14-3-4(a).~~

(g) An applicant (an individual who is a qualifying member) can submit a maximum of two (2) applications per year. At any time, only one (1) application can be pending.

(h) If an enterprise withdraws its application ~~prior to~~ **before** completion of the review process, it may reapply at any time, but the reapplication will be: (1) treated as a new application; and (2) considered in the order in which it is received.

(i) An ~~enterprises~~ **enterprise** certified as an MBE or a WBE as of the date these ~~rule rules~~ become effective shall retain its certification until it expires, unless revoked as provided in this article.

(j) If an enterprise has an application for certification as an MBE or a WBE with the department at the date these rules become effective, the department will make its certification determination based on the rules that were in effect at the time the application was received.

(k) The department may accept applications submitted on behalf of the applicant by another certifying body approved by the department, provided that:

- (1) the applicant has requested in writing that the other certifying body submit the file and application materials, including the results of any on-site review, to the department on his, her, or its behalf; and**
- (2) the other certifying body submits to the department those documents in its files relating to the application.**

For applications submitted under this subsection, nothing shall preclude the department from requesting from the applicant such other documentation or undertaking such additional investigations as may be necessary for it to make a determination on whether certification should be granted or denied by the department.

(l) The department may accept certifications from another certifying body approved by the department, provided that:

(1) the certification issued by the other certifying body requires the applicant to:

- (A) submit documentation; and**
- (B) undergo an investigation no less stringent than the requirements imposed by these rules; and**

(2) the other certifying body agrees to submit to the department upon request a full and complete copy of the applicant's file resulting in the certification.

(Indiana Department of Administration; 25 IAC 5-3-2; filed May 30, 2003, 11:00 a.m.: 26 IR 3297; filed Sep 16, 2005, 8:50 a.m.: 29 IR 450)

SECTION 2. 25 IAC 5-3-5 IS AMENDED TO READ AS FOLLOWS:

25 IAC 5-3-5 Control determinations

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 5. (a) In determining whether qualifying members control an enterprise, the department will consider all the facts in the record, viewed as a whole.

(b) Only an independent business may be certified as **a an** MBE or **a a** WBE. An independent business is one the viability of which does not depend on its relationship with another enterprise or enterprises.

(1) In determining whether a potential MBE or WBE is an independent business, the department will scrutinize relationships with non-MBE or non-WBE enterprises in such areas as **the following:**

- (A) Personnel.**
- (B) Facilities.**
- (C) Equipment.**
- (D) Financial.**
- (E) Bonding support. and**
- (F) Other resources.**

(2) The department must consider whether present or recent employer/employee relationships between the qualifying member of the potential MBE or WBE and non-MBE or WBE or persons associated with non-MBE or WBEs compromise the independence of the potential MBE or WBE.

(3) The department must examine the enterprise's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential MBE or WBE enterprise.

(4) In considering factors related to the independence of a potential MBE or WBE, the department must consider the consistency of relationships between the potential MBE or WBE and non-MBE or WBE with customary industry practice.

(c) An MBE or **a a** WBE must not be subject to any formal or informal restrictions that limit the customary discretion of the qualifying members. There can be no restrictions through

corporate charter provisions, bylaw provisions, contracts, or any other formal or informal devices, including, but not limited to:

- (1) cumulative voting rights;**
- (2) voting powers attached to different classes of stock;**
- (3) employment contracts;**
- (4) requirements for concurrence by nonqualifying partners;**
- (5) conditions precedent or subsequent;**
- (6) executory agreements;**
- (7) voting trusts; or**
- (8) restrictions on or assignments of voting rights;**

that prevent the qualifying members, without the cooperation or vote of any nonqualifying individual, from making any business decision of the enterprise. This subsection does not preclude a spousal cosignature on documents as provided for in this section.

(d) The qualifying members must possess the power to direct or cause the direction of the management and policies of the enterprise and to make day-to-day as well as long term decisions on matters of management, policy, and operations.

- (1) A qualifying member must hold the highest officer position in the enterprise, for example, chief executive officer or president.
- (2) In a corporation, qualifying members must control the board of directors.
- (3) In a partnership, one (1) or more qualifying members must serve as general partners with control over all partnership decisions.

(e) Individuals who are not qualifying members may be involved in an MBE or **a a** WBE as owners, managers, employees, stockholders, officers, and directors. Such individuals must not, however:

- (1) possess or exercise the power to control the enterprise; or**
- (2) be disproportionately responsible for its the operation.**

(f) The qualifying members of the enterprise may delegate various areas of the management, policymaking, or daily operations to other participants in the enterprise, regardless of whether these participants are qualifying members. Such delegations of authority must be revocable, and the qualifying members must retain the power to hire and fire any person to whom ~~such~~ **the** authority is delegated. The managerial role of the qualifying members in the enterprise's overall affairs must be such that the department can reasonably conclude that the qualifying members actually exercise control over the enterprise's operations, management, and policy.

(g) The qualifying member(s) must have ~~an overall a general~~ **an overall a general** understanding of and ~~managerial and technical competence and experience directly related~~ **managerial and technical competence and experience directly related** ~~must demonstrate the ability to effectively manage~~ **must demonstrate the ability to effectively manage** the type of business. ~~in which the enterprise is engaged and the enterprise's operations. The qualifying members are not required to have experience or expertise in every critical area of the enterprise's operations; or to have greater experience or expertise in a given field than managers or~~

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~~key employees.~~ The qualifying **member or** members must have the ability to:

- (1) intelligently and critically evaluate information presented by other participants in the enterprise's activities; and ~~to~~
- (2) use this information to make independent decisions concerning the enterprise's daily operations, management, and policymaking.

Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the enterprise is insufficient to demonstrate control.

(h) If federal, state, or local law, statute, ordinance, or regulation requires an individual to have a particular license or other credential in order to own or control a certain type of enterprise, then the qualifying members who own and control a potential MBE or WBE of that type must possess the required license or credential. If federal, state, or local law does not require such a person to have such a license or credential to own or control an enterprise, the department may not deny certification solely on the ground that the person lacks the license or credential. However, the department may take into account the absence of the license or credential as a factor in determining whether the qualifying members actually control the enterprise.

(i) The department may consider differences in remuneration between the qualifying members and other participants in the enterprise in determining whether to certify an enterprise as ~~a~~ **an** MBE or ~~a~~ **a** WBE. ~~Such~~ **The** consideration shall be in the context of the duties of the persons involved, customary industry practice, the enterprise's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the enterprise.

(1) The department may determine that an enterprise is controlled by a qualifying member although that person's remuneration is lower than that of some other participants in the enterprise.

(2) In a case where a nonqualifying individual formerly controlled the enterprise and a qualifying member now controls it, the department may consider a difference between the remuneration of the former **controller** and **the** current controller of the enterprise as a factor in determining who controls the enterprise, particularly when the nonqualifying individual:

- (A) remains involved with the enterprise; and
- (B) continues to receive greater compensation than the qualifying member.

(j) In order to be deemed as controlling an enterprise, a qualifying member ~~cannot engage~~ **engaged** in outside employment or other business interests **must demonstrate** that: ~~conflict with the management of the enterprise or prevent the individual from devoting~~

- (1) sufficient time and attention to the affairs of the enterprise **is invested on a daily basis** to control its activities; **and**
- (2) **none of these outside interests serve to conflict with the**

management of the enterprise or prevent the individual from devoting adequate time and attention to its control.

~~For example, absentee ownership of a business and part-time work in a full-time enterprise are not viewed as constituting control. However, an individual will be viewed as controlling a part-time business that operates only on evenings or weekends, or both, if the individual controls it all the time it is operating.~~

(k) The following are requirements concerning control of an enterprise run by a family:

(1) A qualifying member may control an enterprise even though one (1) or more of the individual's immediate family members (who themselves are not qualifying members) participate in the enterprise as a manager, **an** employee, **or an** owner or in another capacity. Except as otherwise provided in this subsection, the department must make a judgment about the control the qualifying member exercises vis-à-vis other persons involved in the business as it does in other situations, without regard to whether or not the other persons are immediate family members.

(2) If the department cannot determine whether a qualifying member, as distinct from the family as a whole, controls the enterprise, then the qualifying member has failed to carry his or her burden of proof concerning control, even though he or she may participate significantly in the enterprise's activities.

(l) Where an enterprise was formerly owned or controlled, or both, by a nonqualifying individual (whether or not an immediate family member), ownership or control, or both, was transferred to a qualifying member, and the nonqualifying individual remains involved with the enterprise in any capacity, the qualifying member now owning the enterprise must demonstrate ~~that:~~ **the following:**

(1) The transfer of ownership or control, or both, to the qualifying member was made for reasons other than obtaining certification as an MBE or **a** WBE.

(2) The qualifying member actually controls the management, policy, and operations of the enterprise, notwithstanding the continuing participation of a nonqualifying individual.

(m) In determining whether an enterprise is controlled by qualifying members, the department may consider whether the enterprise owns equipment necessary to perform its work. However, the department may not determine that an enterprise is not controlled by qualifying members solely because the enterprise leases, rather than owns, such equipment where:

- (1) leasing equipment is a customary industry practice; and
- (2) the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the enterprise.

(n) The department must grant certification to an enterprise only for specific types of work in which the qualifying members have the ability to control the enterprise. To become certified in an additional type of work, the enterprise must have been certified:

(1) for at least six (6) months in its current type of work; or certified

(2) by the department for at least one (1) year;

and demonstrate that its qualifying members are able to control the enterprise with respect to the newly-requested type of work. The department may not, in this situation, require that the enterprise be recertified or submit a new application for certification, but it must verify the qualifying member's control of the enterprise in the additional type of work. However, the department must apply the same standards to additional types of work that were applied originally. Certification in these additional work areas ~~are~~ **is** not guaranteed simply because the enterprise is currently certified. Further, there is a presumption against having more than three (3) industry variations in the same enterprise.

(o) An enterprise operating under a franchise or license agreement may be certified if it meets the standards in this part and the franchiser or licensor is not affiliated with the franchisee or licensee. In determining whether affiliation exists, the department will generally not consider the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.

(p) In order for a partnership to be deemed controlled by qualified members, any nonqualifying partners must not have the power, without the specific written concurrence of the qualifying member, to contractually bind the partnership or subject the partnership to contract or tort liability.

(q) The qualifying members controlling an enterprise may use an employee leasing company. The use of such a company does not preclude the qualifying members from controlling the enterprise if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the leased employees, as well as ultimate responsibility for wage and tax obligations related to the employees.

(r) There is a presumption against the ability to operate and control more than three (3) enterprises within the context of this article. (*Indiana Department of Administration; 25 IAC 5-3-5; filed May 30, 2003, 11:00 a.m.: 26 IR 3300; filed Sep 16, 2005, 8:50 a.m.: 29 IR 451*)

SECTION 3. 25 IAC 5-3-6 IS AMENDED TO READ AS FOLLOWS:

25 IAC 5-3-6 Other factors considered for certification

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6-4; IC 5-22

Sec. 6. (a) The department will consider whether an enterprise performs a commercially useful function in making decisions about whether to certify an enterprise as ~~a~~ **an** MBE or ~~a~~ **a** WBE. Determination that an enterprise performs a commercially useful function will be made based on the following considerations:

(1) An MBE or ~~a~~ **a** WBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the MBE or WBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an MBE or ~~a~~ **a** WBE is performing a commercially useful function, one must evaluate **the following**:

(A) The amount of work subcontracted.

(B) Industry practices.

(C) Whether the amount the enterprise is to be paid under the contract is commensurate with the work it is actually performing. ~~and~~

(D) The credit claimed for its performance of the work. ~~and~~

(E) Other relevant factors.

(2) An MBE or ~~a~~ **a** WBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of MBE or WBE participation. In determining whether an MBE or ~~a~~ **a** WBE is such an extra participant, one must examine similar transactions, particularly those in which MBEs or WBEs do not participate.

(3) In the case of construction contracts, if:

(A) an MBE or ~~a~~ **a** WBE does not perform or exercise responsibility for at least the agency's requisite percent of the total cost of its contract with its own workforce; or

(B) the MBE or WBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved;

it is presumed that the enterprise is not performing a commercially useful function.

(b) The department may consider, in making certification decisions, whether an enterprise has exhibited a pattern of conduct indicating prior involvement in attempts to evade or subvert the intent or requirements of the MBE or WBE program.

(c) The department shall evaluate the eligibility of an enterprise on the basis of present circumstances. It will not refuse to certify an enterprise based solely on historical information indicating a lack of ownership or control by qualifying members in the past, if the enterprise currently meets the ownership and control standards of this part.

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(d) The department will not require an MBE or a WBE enterprise to be:

(1) prequalified; or

(2) certified under the division of public works;

as a condition for certification. Standards for prequalification and certification are made pursuant to under 105 IAC 11 and IC 4-13.6-4, respectively. However, if the prequalification (certification) is industry/trade-specific, the department will require all enterprises that participate in its contracts and subcontracts related to that area to be prequalified.

(e) The applicant for MBE or WBE certification must possess reasonable prospects for success in competing in the public sector.

(1) The department will deem an enterprise that has been in business for two (2) full years immediately prior to before its date of application as possessing reasonable prospects for success in competing in the public sector ~~(1)~~ if income tax returns for each of the two (2) previous tax years must show operating revenues in the selected types of work for which the applicant is seeking certification.

(2) The department may waive the two (2) years in business requirement if each one (1) of the following conditions is met:

(A) The qualifying member or members have demonstrated management experience.

(B) The qualifying member or members have demonstrated technical experience to carry out the type of business for which certification is sought.

(C) The qualifying member has a record of successful performance on contracts from governmental or nongovernmental sources in its primary area of certification.

(D) The applicant for certification as an MBE or a WBE has demonstrated, or can demonstrate, its ability to timely obtain the personnel, facilities, equipment, and any other requirements needed to perform contracts.

(Indiana Department of Administration; 25 IAC 5-3-6; filed May 30, 2003, 11:00 a.m.; 26 IR 3302; filed Sep 16, 2005, 8:50 a.m.; 29 IR 453)

SECTION 4. 25 IAC 5-4-1 IS AMENDED TO READ AS FOLLOWS:

25 IAC 5-4-1 Revocation of an enterprise's certification as an MBE or a WBE

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. (a) This section establishes standards for processing a complaint issued to a challenged enterprise concerning the possible revocation of its certification.

(b) Requirements for ineligibility complaints are as follows:

(1) Any person may file with the department a written complaint:

(A) alleging that a currently certified enterprise is ineligible; and

(B) specifying the alleged reasons why the enterprise is ineligible.

The department is not required to accept a general allegation that an enterprise is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the enterprise is ineligible and should not continue to be certified.

(2) The department must review:

(A) its records concerning the enterprise;

(B) any material provided by the enterprise and the complainant; and

(C) other relevant information.

The department may request additional information from the enterprise or conduct any other investigation deemed necessary.

(3) If the department determines, based on this review, that there is reasonable cause to believe that the enterprise is ineligible, the department must provide written notice to the enterprise that it proposes to find the enterprise ineligible, setting forth the reasons for the proposed determination. If the department determines that such reasonable cause does not exist, it must notify the complainant and the enterprise in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) If, based on:

(1) notification by the enterprise of a change in its circumstances; or

(2) other information that comes to the attention of the department; that

there is reasonable cause to believe that a currently certified enterprise is ineligible, the department must provide written notice to the enterprise that it proposes to find the enterprise ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(d) Requirements for complaints from other state agencies are as follows:

(1) If a state agency determines that information in an enterprise's records, or other information available to that agency, provides reasonable cause to believe that a certified enterprise does not meet the eligibility criteria of this subsection, the state agency may request that the department ~~initiate~~ **undertake a proceeding to remove review of** the enterprise's certification.

(2) The state agency must provide the department all relevant documentation or other information.

(e) The department may issue an order requiring an enterprise to show cause why its certification as an MBE or a WBE should not be revoked as provided in subsection (a), (b), or (c). In such case, the enterprise shall be entitled to a hearing as set forth in ~~25 IAC 5-4-2~~ **section 2 of this rule.**

(f) The department ~~must not~~ **may** base a decision to ~~remove eligibility on a reinterpretation or changed opinion of information available to the department at the time of its revoke certification of the enterprise. It may base such a decision only~~ on one (1) or more of the following:

- (1) Changes in the enterprise's circumstances since the certification of the enterprise by the department that render the enterprise unable to meet the eligibility standards of this rule.
- (2) Information or evidence not available to the department at the time the enterprise was certified.
- (3) Information that was concealed or misrepresented by the enterprise in previous certification actions by ~~a~~ **the** department.
- (4) A change in the certification standards or requirements since the enterprise was certified.
- (5) A documented finding that the department's **initial** determination to certify the enterprise was ~~factually~~ **clearly** erroneous.

(g) During the ~~pendancy~~ **pendency** of a proceeding to determine if an enterprise's WBE or MBE should be revoked or suspended, the enterprise shall retain its status until a final order revoking certification is issued by the commission.

(h) When an enterprise's certification as an MBE or a WBE has been revoked and is no longer subject to judicial review, the department will take the following action relative to prime contractors who have relied in good faith upon the certification of the disqualified entity:

(1) When a prime contractor has made a commitment to use the disqualified enterprise, or there has been a commitment to use the enterprise as a prime contractor, but a subcontract or contract has not been executed before the order to show cause provided for in subsection (e) has been issued, the ineligible enterprise does not count toward the contract goal or overall goal. The prime contractor is to:

- (A) meet the contract goal with an eligible enterprise; or
- (B) demonstrate that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the enterprise before the department has issued a notice to show cause, the prime contractor may continue to:

- (A) use the enterprise on the contract; and ~~may continue to~~
- (B) receive credit toward its goal for the enterprise's work.

In this case, or in a case where a prime contract has been awarded to an enterprise that is subsequently decertified, the portion of the decertified enterprise's performance of the contract remaining after the notice of its ineligibility shall not count toward the overall goal but may count toward the contract goal.

(Indiana Department of Administration; 25 IAC 5-4-1; filed May 30, 2003, 11:00 a.m.: 26 IR 3305; filed Sep 16, 2005, 8:50 a.m.: 29 IR 454)

SECTION 5. 25 IAC 5-4-2 IS AMENDED TO READ AS FOLLOWS:

25 IAC 5-4-2 Review of determinations by the department regarding certification as an MBE or a WBE

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 4-21.5-3-5; IC 5-22

Sec. 2. (a) An enterprise:

- (1) whose application for certification as an MBE or ~~as~~ a WBE has been denied; or
 - (2) to which the department has issued an order to show cause why its MBE or WBE certification should not be revoked;
- shall be given notice of such action and shall be entitled to petition for review under the Indiana Administrative Orders and Procedures Act, IC 4-21.5, et seq.

(b) The administrative law judge or judges appointed to hear any matter arising under this rule shall have had no prior involvement in the review or preliminary determination of the matter heard.

(c) The ultimate authority under this article is the commission.

(d) When an enterprise is denied certification, it cannot reapply for certification for ~~nine (9)~~ **twelve (12)** months. The time period for reapplication begins to run at the time the enterprise's administrative and judicial remedies are exhausted. *(Indiana Department of Administration; 25 IAC 5-4-2; filed May 30, 2003, 11:00 a.m.: 26 IR 3306; filed Sep 16, 2005, 8:50 a.m.: 29 IR 455)*

SECTION 6. 25 IAC 5-6-2 IS AMENDED TO READ AS FOLLOWS:

25 IAC 5-6-2 Monitoring MBE and WBE participation as subcontractors

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 2. (a) In monitoring the participation of MBEs or WBEs as subcontractors, the department shall conduct preproject meetings with all subcontractors and prime contractors. The department shall determine which projects will require a preproject meeting. Items of discussion at the meeting shall include, but may not be limited to, the following:

- (1) Subcontractors will learn when their services are likely to be needed.
- (2) The department will:
 - (A) explain the state's prompt payment program;
 - ~~(3) The department will~~ (B) provide a review of MBE/WBE program requirements; **and**
 - ~~(4) The department will~~ (C) explain the state's nondiscrimination and antidiscrimination laws.

(b) All contract amendments and change order requests must include **the following:**

- (1) An explanation of how MBEs and WBEs will be used. ~~and~~
- (2) The percentage represented above the current contract amount.

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(c) Notify appropriate subcontractors when contracts are revised upward through amendments or change orders, or both.

(d) All prime contractors, including MBE and WBE prime contractors, must meet the contract goals through use of subcontractors. MBE and WBE prime contractors will get no credit toward the contract goal for the use of their own workforce. (*Indiana Department of Administration; 25 IAC 5-6-2; filed May 30, 2003, 11:00 a.m.: 26 IR 3307; filed Sep 16, 2005, 8:50 a.m.: 29 IR 455*)

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TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #04-268(F)

DIGEST

Adds 170 IAC 6-1.1 to create new rules governing distribution system improvement charges (DSIC) allowed for water utilities under IC 8-1-31. Effective 30 days after filing with the Secretary of State.

170 IAC 6-1.1

SECTION 1. 170 IAC 6-1.1 IS ADDED TO READ AS FOLLOWS:

Rule 1.1. Distribution System Improvement Charges (DSIC)

170 IAC 6-1.1-1 Definitions

Authority: IC 8-1-1-3; IC 8-1-31-17

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Commission" means the Indiana utility regulatory commission.

(c) "Distribution system" means:

- (1) distribution mains;
- (2) valves;
- (3) hydrants;

- (4) service lines;
- (5) meters;
- (6) meter installation;
- (7) and other appurtenances;

necessary to transport treated water from the point it exits the treatment facility to the point at which it is delivered to the customer.

(d) "Distribution system improvement charges" or "DSIC" means a distribution system improvement charge approved under IC 8-1-31.

(e) "DSIC costs" means depreciation expenses and the pretax return associated with eligible distribution system improvements.

(f) "DSIC revenues" means utility revenues produced through a DSIC exclusive of revenues from all other rates and charges.

(g) "Eligible distribution system improvements" means new used and useful water utility plant projects that:

- (1) do not increase revenues by connecting the distribution system to new customers;
- (2) are in service; and
- (3) were not included in the utility's rate base in its most recent general rate case.

(h) "Utility" means every public or municipally-owned utility.

(i) "Public utility" means every:

- (1) corporation;
- (2) company;
- (3) partnership;
- (4) limited liability company;
- (5) individual; or
- (6) association of individuals;

or their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the state for the production, delivery, or furnishing of water.

(j) "Municipally-owned utility" includes every utility owned or operated by a municipality.

(k) "Pretax return" means the following:

- (1) For investor-owned utilities the revenue necessary to:
 - (A) produce net operating income equal to the utility's weighted cost of capital multiplied by the original cost of eligible distribution system improvements; and
 - (B) pay any state and federal income taxes applicable to such income.
- (2) "Pretax return" for a municipally-owned utility:
 - (A) the average annual debt service associated with the distribution system improvement; or
 - (B) the return on plant under IC 8-1.5-3-8 granted in its

most recent rate case computed by multiplying the authorized return times the cost of eligible distribution system improvement.

(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-1; filed Sep 27, 2005, 8:45 a.m.: 29 IR 456)

170 IAC 6-1.1-2 Applicability and scope

Authority: IC 8-1-31-8
Affected: IC 8-1-2; IC 8-1-31

Sec. 2. (a) This rule applies to any utility that may now or hereafter be engaged in providing water service, subject to the jurisdiction of the commission.

(b) This rule shall in no way prohibit the recovery by a utility of costs that meet the statutory criteria of IC 8-1-31 et seq., including costs not otherwise included under Account 331, 333, 334, or 335 of the National Association of Regulatory Utility Commissioners' Uniform System of Accounts for Water Utilities, provided that the costs for which recovery is requested were incurred in a project within the utility's existing distribution system and not in projects that connect to new customers. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-2; filed Sep 27, 2005, 8:45 a.m.: 29 IR 457)*

170 IAC 6-1.1-3 Exemption

Authority: IC 8-1-31-8
Affected: IC 8-1-2; IC 8-1-31

Sec. 3. A utility may not file a petition under this rule in the same calendar year in which the utility has filed a request for a general increase in the basic rates and charges of the utility. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-3; filed Sep 27, 2005, 8:45 a.m.: 29 IR 457)*

170 IAC 6-1.1-4 Filing

Authority: IC 8-1-31-8
Affected: IC 8-1-2; IC 8-1-31

Sec. 4. (a) The utility shall file with the commission rate schedules establishing a DSIC that will allow the automatic adjustment of the utility's basic rates and charges to provide for recovery of DSIC costs. Any petition filed to initiate a DSIC proceeding, which shall be deemed the utility's case-in-chief, shall include as attachments any:

- (1) schedules;
 - (2) forms;
 - (3) testimony;
 - (4) exhibits; or
 - (5) other required supporting documentation;
- as provided in section 5 of this rule.

(b) The utility shall serve the office of the utility consumer counselor a copy of its filing at the time of its filing with the commission. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-4; filed Sep 27, 2005, 8:45 a.m.: 29 IR 457)*

170 IAC 6-1.1-5 Required supporting documentation

Authority: IC 8-1-31-8
Affected: IC 8-1-2-49; IC 8-1-31

Sec. 5. (a) The utility shall submit the following supporting documentation for its petition to the commission:

- (1) A description of the DSIC project, an explanation of why the project is needed, the benefits resulting to the utility and its customers upon completion of the project, and the age of the plant that was retired.
- (2) A statement that the project is in service and was not included in the utility's rate base in its most recent general rate case. Provide the cause number and date of the utility's most recent rate order.
- (3) A statement that the project will not result in an increase in revenue resulting from the connection of new customers to the utility's distribution system.
- (4) A statement that all necessary local, state, and federal permits, approvals, and authorizations applicable to the DSIC project have been obtained.
- (5) A statement regarding whether any affiliate (as defined by IC 8-1-2-49) was directly or indirectly engaged by the utility in connection with the installation of the infrastructure that is the subject of the proposed DSIC and a copy of any such affiliated interest contract.
- (6) A statement regarding whether the utility plans to replace other distribution infrastructure in the next five (5) years and a general outline of any such plans.
- (7) A new tariff reflecting the requested DSIC in the same format as the existing tariff on file with the commission, with clear denotations on all schedules where the DSIC rate is applicable.
- (8) A statement that the utility:
 - (A) has invoices and other cost support for every item included in the project cost form; and
 - (B) is prepared to file such invoices if required by the commission or requested by the office of utility consumer counselor.
- (9) An affidavit from an officer of the utility attesting to the veracity of the statements and information submitted under this subsection.
- (10) When the petition constitutes an application to change an existing DSIC, a statement describing how the utility will satisfy any outstanding reconciliation requirement for its current DSIC.
- (11) A statement that the project costs, for which recovery is sought, represent an investment by the utility and not another funding source such as a grant, developer contribution, or transportation department reimbursement.
- (12) If the applicant is seeking debt service, a statement including the cause number that the applicant has previously obtained IURC approval to issue the long term debt.

(b) By submitting documentation in compliance with subsection (a), the utility makes a prima facie case for the eligibility of the improvements and the reasonableness of the

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charges. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.1-5; filed Sep 27, 2005, 8:45 a.m.: 29 IR 457*)

170 IAC 6-1.1-6 Response

Authority: IC 8-1-31-8

Affected: IC 8-1-2; IC 8-1-31

Sec. 6. (a) The office of utility consumer counselor or other intervening party may submit a report to the commission indicating its opposition to or support of each portion of the petition within thirty (30) days after the petition is filed. The filing utility may then file its rebuttal within seven (7) days. The office of utility consumer counselor may examine information of the utility to determine whether:

- (1) the system improvements are in accordance with the requirements of section 1(f) of this rule; and
- (2) the utility properly calculated the proposed charges.

(b) For purposes of discovery, the period for responses shall be four (4) business days instead of ten (10) days. The remaining provisions of 170 IAC 1-1.1-16 shall apply. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.1-6; filed Sep 27, 2005, 8:45 a.m.: 29 IR 458*)

170 IAC 6-1.1-7 Hearing and order

Authority: IC 8-1-31-9

Affected: IC 8-1-2; IC 8-1-31

Sec. 7. (a) Except as provided in subsection (b) or for good cause shown, the commission shall hold the hearing and issue its order not later than sixty (60) days after the petition is filed.

(b) If, subsequent to the filing of its petition, the utility files additional testimony or exhibits, other than rebuttal, to supplement its case-in-chief, or for good cause shown, the commission may reset the sixty (60) day hearing deadline established in subsection (a) of this section. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.1-7; filed Sep 27, 2005, 8:45 a.m.: 29 IR 458*)

170 IAC 6-1.1-8 Reconciliation procedure

Authority: IC 8-1-31-9

Affected: IC 8-1-2; IC 8-1-31

Sec. 8. (a) Any utility authorized to implement a DSIC shall file with the commission, no later than thirty (30) days after the expiration of each twelve (12) month period in which the DSIC rate was in effect, a report that reconciles the difference between the DSIC revenues and the DSIC costs. The utility shall serve a copy of the report simultaneously on the office of the utility consumer counselor. Within fifteen (15) days of service, the office of the utility consumer counselor shall submit its comments to the commission and serve a copy on the utility. Upon review of the utility's report and the office of utility consumer counselor's comments, the commission may, at its discretion, convene a hearing after notice to adjust the DSIC to reconcile over recovery or under recovery of the underlying DSIC costs.

(b) In the event the utility is later authorized to change its DSIC, then the annual reconciliation shall be twelve (12) months following the authorization of the change in the DSIC, with the first reconciliation also covering the period between the last reconciliation of the previously approved DSIC and authorization to change the DSIC (the "interim period"). Reconciliation for the interim period shall use the DSIC revenues and DSIC costs associated with the DSIC in effect at the time. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.1-8; filed Sep 27, 2005, 8:45 a.m.: 29 IR 458*)

LSA Document #04-268(F)

Notice of Intent Published: November 1, 2004; 28 IR 621

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Approved by Attorney General: August 9, 2005

Approved by Governor: September 9, 2005

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IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-14(F)

DIGEST

Amends 312 IAC 16-5-19, governing performance standards and enforcement of plugging and abandoning of oil and gas wells, to allow the use of water as a material for filling uncemented intervals in a plugged well. Effective 30 days after filing with the Secretary of State.

312 IAC 16-5-19

SECTION 1. 312 IAC 16-5-19 IS AMENDED TO READ AS FOLLOWS:

312 IAC 16-5-19 Plugging and abandoning wells

Authority: IC 14-37-3-6

Affected: IC 14-37-8

Sec. 19. (a) Wells for oil and gas purposes shall be plugged in accordance with IC 14-37-8.

(b) With respect to a well for oil and gas purposes, an owner or operator must place bottom plugs using one (1) of the following procedures:

- (1) A cement plug from total depth to three (3) feet below ground elevation.
- (2) A cement plug from the shallower of total depth of fifty (50) feet below to ~~no~~ not less than one hundred (100) feet above each completed zone unless the placement of the plug would require the removal of a permanent plugback and one (1) of the following:

(A) A mechanical plug set inside cemented casing within two hundred (200) feet above the uppermost completed zone with a ten (10) gallon cement plug placed on top of the mechanical plug.

(B) A cement plug from the top of to ~~no~~ **not** less than two hundred fifty (250) feet above the uppermost completed zone.

(3) A mechanical plug between each completed zone unless the placement of the plug would require the removal of a permanent plugback and one (1) of the following:

(A) A mechanical plug set inside cemented casing within two hundred (200) feet above the uppermost completed zone with a ten (10) gallon cement plug placed on top of the mechanical plug.

(B) A cement plug from the top of to ~~no~~ **not** less than two hundred fifty (250) feet above the uppermost completed zone.

(4) A dry hole that does not enter a commercially mineable coal resource may be filled with mud-laden fluid, well cuttings, pea gravel, or crushed rock from the bottom of the hole to fifty (50) feet below the deepest underground source of drinking water. The owner or operator shall place a cement plug from fifty (50) feet below the deepest underground source of drinking water to three (3) feet below the surface.

(5) If a well is flowing at the surface, however, the operator must place plugs under one (1) of the following:

(A) Subdivision (1).

(B) Subdivision (2) and (2)(A).

(C) Subdivision (3) and (3)(A).

(c) An owner or operator must place any top plug as a cement plug from fifty (50) feet below:

(1) the deeper of the lowest commercially mineable coal seam or underground source of drinking water to three (3) feet below ground elevation; or

(2) to ~~no~~ **not** less than one hundred (100) feet above each commercially mineable coal seam, and a cement plug from fifty (50) feet below the deepest underground source of drinking water to three (3) feet below ground elevation.

Notwithstanding ~~subdivision~~ **subdivisions** (1) and ~~subdivision~~ (2), fallback of a top plug may be topped off by surface placement of cement slurry.

(d) Uncemented casing from fifty (50) feet below the deeper of the lowest commercially mineable coal seam or underground source of drinking water to three (3) feet below ground elevation must be:

(1) removed;

(2) ripped; or

(3) cemented in place using a method approved by the division.

(e) Uncemented intervals must be filled with:

(1) pea gravel;

(2) crushed rock;

(3) drilling mud;

(4) gel; or ~~fresh~~

(5) water.

(f) An owner or operator must obtain prior approval from the division for the use of cement. Cement must meet American Petroleum Institute (API) specification 10(A) or American Society for Testing and Materials (ASTM) Specification C150 Standards for Portland cement. If a pozzolan cement mixture is used, the pozzolanic content by volume must not exceed fifty percent (50%).

(g) An owner or operator must obtain prior approval from the division for the use of a mechanical plug. The mechanical plug must meet API specification 11D1.

(h) An owner or operator must place any cement plug using one (1) of the following methods:

(1) Dump bailing on top of a mechanical plug.

(2) Pump and plug or displacement through:

(A) tubing;

(B) coiled tubing; or

(C) drill pipe.

(3) For any well with two (2) or fewer completed zones and circulated casing, surface pumping or bullhead plugging from the uppermost completed zone to three (3) feet below ground elevation.

(i) To ensure the proper plugging of wells, the division may require one (1) or more of the following:

(1) Use of mechanical plugs in nonstatic wells (as defined in 312 IAC 16-1-44.6).

(2) Submission of cement and service company tickets.

(3) Removal of any unauthorized material placed in a hole before plugging.

(4) Sampling and testing of cement plugs.

(j) The division director may authorize the use of alternative plugging materials and methods to achieve any of the following:

(1) To protect human health or safety.

(2) To protect the environment.

(3) To prevent unreasonably detrimental effects upon fish, wildlife, or botanical resources.

(4) To avoid unreasonable efforts to remove obstructions below the deepest underground source of drinking water.

An owner or operator must obtain prior approval from the division director before using an alternative material or method.

(k) Except as provided in subsection (l) or (m), an owner or operator must not plug a well unless a division representative is present to witness the plugging. If a well is plugged without a division representative present to witness the plugging, the owner or operator may be required by the division director to drill out and plug the well in the presence of a division representative.

(l) If an owner or operator and a division representative have scheduled the plugging of a well, but a division representative

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is not present at the scheduled time or place, the owner or operator may plug the well in the absence of a division representative only after making a reasonable attempt to have another division representative present to witness the plugging. If a division representative did not witness the plugging, the owner or operator may seek approval for the plugging from the division director under a Special Plugging Affidavit. To qualify for approval of a Special Plugging Affidavit, the owner or operator must do the following:

- (1) Provide a confirmation number to establish that the plugging was scheduled with the division.
- (2) Demonstrate that a reasonable attempt was made to have another division representative present to witness the plugging.
- (3) Submit a cement ticket that identifies the well and shows the amount of cement delivered.
- (4) Submit the completed Special Plugging Affidavit.

(m) If a well was plugged by a former owner or operator before the effective date of this section and a division representative was not present to witness the plugging, the owner or operator shall request the approval of a Special Plugging Affidavit from the division director. To qualify for a Special Plugging Affidavit under this subsection, the owner or operator must submit the following:

- (1) A cement ticket that identifies the well and shows the amount of cement delivered.
- (2) The completed Special Plugging Affidavit.

(n) The owner or operator must submit a report of each permanent plugback on a form approved by the division.

(o) A plugging and abandonment report must be signed by the following persons:

- (1) The owner or operator or an authorized agent for the owner or operator.
- (2) The person who supplied or prepared the cement.
- (3) The division representative who witnessed the plugging.
- (4) The division employee who reviewed the information contained in the report.

(p) Within six (6) months after plugging a well, the owner or operator must perform the following acts:

- (1) Cut off and remove all casing from three (3) feet below ground elevation to the surface.
- (2) Remove substructures.
- (3) Clear the well site of refuse and equipment.
- (4) Remove and properly dispose of waste fluids from the well site.
- (5) Fill all excavations at the well site.
- (6) Restore the well site as nearly as practicable to its condition before drilling.
- (7) If necessary, initiate a cleanup at the well site under sections 24 through 29 of this rule.

(q) In addition to the requirements of subsection (p), the

owner or operator must, within six (6) months after the plugging of the last well on the lease, perform the following acts:

- (1) Remove and properly dispose of waste fluids.
- (2) Remove the tank battery from the lease.
- (3) Clear the lease of refuse and equipment.
- (4) Fill all excavations.
- (5) Restore the tank battery and excavation site as nearly as practicable to its condition before operation.
- (6) If necessary, initiate a cleanup of the tank battery and excavation site under sections 24 through 29 of this rule.

(r) The owner of surface rights may, with the consent of the owner or operator, accept responsibility for either or both of the following, by so indicating on the division's well completion form:

- (1) Equipment, fixtures, or excavations placed with respect to a well drilled for oil and gas purposes.
- (2) A well plugged up to a zone containing fresh water.

If the owner of surface rights accepts responsibility under this subsection, the owner or operator and its agents are released from responsibility for those items for which the owner of surface rights accepts responsibility. (*Natural Resources Commission; 312 IAC 16-5-19; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2344; filed Aug 6, 2004, 12:00 p.m.: 27 IR 3882; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 12, 2005, 9:45 a.m.: 29 IR 458*)

LSA Document #05-14(F)

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Approved by Attorney General: August 30, 2005

Approved by Governor: September 12, 2005

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IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-18(F)

DIGEST

Amends 312 IAC 8, which governs the public use of DNR properties, to clarify that the DNR's issuance of a lease, license, or concession does not disqualify an area from administration as a "DNR property", to remove the general prohibition on leaving vehicles, watercraft, and other equipment in a DNR parking lot in excess of 48 hours, though this prohibition or a similar prohibition may still be established by signage at specified parking lots, to clarify the permit possession requirements on fish and wildlife areas and on reservoir properties, and to make other technical changes. Effective January 1, 2006.

312 IAC 8-1-4
312 IAC 8-2-3
312 IAC 8-2-8

SECTION 1. 312 IAC 8-1-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-1-4 Definitions

Authority: IC 14-10-2-4; IC 14-11-2-1
 Affected: IC 9-13-2-196; IC 9-25-2-4; IC 14-8-2-261; IC 14-31-1

Sec. 4. The following definitions are supplemental to those set forth at 312 IAC 1 and apply throughout this article:

- (1) "Authorized representative" means the director or another person designated by the director.
- (2) "Berry" means the fruiting body of **the following**:
 - (A) A blackberry.
 - (B) A blueberry.
 - (C) A dewberry.
 - (D) An elderberry.
 - (E) A gooseberry.
 - (F) A huckleberry.
 - (G) A mulberry.
 - (H) A raspberry.
 - (I) A serviceberry. ~~and~~
 - (J) A strawberry.
- (3) "DNR property" means land and water owned, licensed, leased, or dedicated under IC 14-31-1, or under easement to the state or managed by the department. The following areas are, however, exempted from the term:
 - (A) Public freshwater lakes.
 - (B) Navigable waterways.
 - (C) Buildings and grounds (other than those of the Indiana state museum) not located at recreational, natural, or historic sites.

An area is not exempted because the department has issued a lease, license, or concession to another person.
- (4) "Fallen cone" means the fruiting body of a coniferous tree that is no longer attached to a living tree.
- (5) "Firearm or bow and arrows" means:
 - (A) a firearm;
 - (B) an air gun;
 - (C) a CO₂ gun;
 - (D) a spear gun;
 - (E) a bow and arrows;
 - (F) a crossbow;
 - (G) a paint gun; or
 - (H) a similar mechanical device;

that can be discharged and is capable of causing injury or death to a person or an animal or damage to property.
- (6) "Fruit" means the fruiting body of **the following**:
 - (A) Cherries.
 - (B) Grapes.
 - (C) Apples.
 - (D) Hawthorns.
 - (E) Persimmons.

- (F) Plums.
 - (G) Pears.
 - (H) Pawpaws. ~~and~~
 - (I) Roses.
- (7) "Greens" means the aboveground shoots or leaves of **the following**:
- (A) Asparagus.
 - (B) Dandelion.
 - (C) Mustard.
 - (D) Plantain. ~~and~~
 - (E) Poke.
- (8) "Group boat dock" means an artificial basin or enclosure for the reception of watercraft that is owned and maintained by adjacent landowners for their private usage.
- (9) "Leaf" means the leaf of a woody plant for use in a leaf collection or similar academic project.
- (10) "License" means:
- (A) a license;
 - (B) a permit;
 - (C) an agreement;
 - (D) a contract;
 - (E) a lease;
 - (F) a certificate; or
 - (G) **any** other form of approval;
- issued by the department. A license may authorize an activity otherwise prohibited by this rule.
- (11) "Mushroom" means edible fungi.
- (12) "Nut" means the seeds of **the following**:
- (A) Hazelnuts.
 - (B) Hickories.
 - (C) Oaks.
 - (D) Pecans. ~~and~~
 - (E) Walnuts.
- (13) "Off-road vehicle" has the meaning set forth in IC 14-16-1-3 [IC 14-16-1-3 was repealed by P.L.225-2005, SECTION 25, effective May 11, 2005].
- (14) "Public road" means a public highway under IC 9-25-2-4 that is designated by the department for use by the public.
- (15) "Recreation area" means an area that is managed by the department for specific recreation activities.
- (16) "Snowmobile" has the meaning set forth in IC 14-8-2-261.
- (17) "Vehicle" has the meaning set forth in IC 9-13-2-196(d). (*Natural Resources Commission; 312 IAC 8-1-4; filed Oct 28, 1998, 3:32 p.m.: 22 IR 738, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 552, eff Jan 1, 2000; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1544; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3713; filed Sep 19, 2003, 8:14 a.m.: 27 IR 455; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 14, 2005, 2:45 p.m.: 29 IR 461, eff Jan 1, 2006*)

SECTION 2. 312 IAC 8-2-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-2-3 Firearms, hunting, and trapping

Authority: IC 14-10-2-4; IC 14-11-2-1
 Affected: IC 14-22-11-1

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Sec. 3. (a) A person must not possess a firearm or bow and arrows on a DNR property unless one (1) of the following conditions apply:

- (1) The firearm or bow and arrows are:
 - (A) unloaded and uncocked; and
 - (B) placed in a case or locked within a vehicle.
- (2) The firearm or bow and arrows are possessed at, and of a type designated for usage on:
 - (A) a rifle;
 - (B) a pistol;
 - (C) a shotgun; or
 - (D) an archery;range.
- (3) The firearm or bow and arrows are being used in the lawful pursuit of either **of the following**:
 - (A) A wild animal on a DNR property authorized for that purpose. ~~or~~
 - (B) A groundhog as authorized under a license.

(b) Except as provided in subsection (a)(1), a firearm or bow and arrows may not be possessed on DNR properties within **any of the following**:

- (1) A nature preserve unless hunting is authorized under subsection (c).
- (2) A property administered by the division of museums and historic sites.
- (3) A campground.
- (4) A picnic area.
- (5) A beach.
- (6) A service area.
- (7) A headquarters building.
- (8) A hunter check station. ~~or~~
- (9) A developed recreation site.

(c) A person may hunt on a state forest administered by the division of forestry, a reservoir administered by the division of state parks and reservoirs, or a wildlife area administered by the division of fish and wildlife. A person using any of these areas must do the following:

- (1) Comply with all federal and state hunting, trapping, and firearms laws.
- (2) On a fish and wildlife area and a reservoir property, obtain a one (1) day hunting permit and record from a checking station. The person must: ~~obtain~~
 - (A) **retain** the permit and record while in the field for the authorized date; and ~~must~~
 - (B) as directed, return them to the department.
- (3) Refrain from hunting on a nature preserve if prohibited by signage posted at the site.

(d) Unless otherwise posted or designated on a property map, a person must not place a trap except as authorized by a license issued for a property by an authorized representative. This license is in addition to the licensing requirement for traps set forth in IC 14-22-11-1.

- (e) A person must not run dogs, except:
- (1) during the lawful pursuit of wild animals; or
 - (2) as authorized by a license for field trials or in a designated training area.

A property administered by the division of fish and wildlife may be designated for training purposes without requiring a field trial permit. Only dogs may be used during field trials on a DNR property, except where authorized by a license on a fish and wildlife property.

(f) Unless otherwise designated, a person must not discharge a firearm or bow and arrows within two hundred (200) feet of ~~a~~ **any of the following**:

- (1) A campsite.
- (2) A boat dock.
- (3) A launching ramp.
- (4) A picnic area. ~~or~~
- (5) A bridge.

(g) A person must not leave a portable tree blind or duck blind unattended except for the period authorized by ~~312 IAC 9-3-2(j)~~ **312 IAC 9-3-2(i)**.

(h) The following terms apply to the use of shooting ranges:
(1) A person must not use a shooting range unless the person is:

- (A) at least eighteen (18) years of age; or
 - (B) accompanied by a person who is at least eighteen (18) years of age.
- (2) A person must:
(A) register with the department; **and**
(B) **pay any applicable fees**;
- before using a shooting range.

(3) A person must shoot only at paper targets placed on target holders provided by the department. All firing must be downrange with reasonable care taken to assure any projectile is stopped by the range backstop.

(4) Shot no larger than size ~~six~~ 6 must be used on a shotgun range.

(5) A person must not:

- (A) discharge a firearm using automatic fire;
- ~~(6) A person must not~~ (B) use tracer, armor-piercing, or incendiary rounds;
- ~~(7) A person must not~~ (C) play on, climb on, walk on, or shoot into or from the side berms; **or**
- ~~(8) A person must not~~ (D) shoot at clay pigeons, except on a site designated for shooting clay pigeons.

Glass and other forms of breakable targets must not be used on a shooting range.

~~(9)~~ (6) A person must dispose of the targets used by the person under section 2(a) of this rule.

~~(10)~~ (7) Permission must be obtained from the department in advance for a shooting event that involves any of the following:

- (A) An entry fee.
- (B) Competition for **any of the following**:

- (i) Cash.
- (ii) Awards.
- (iii) Trophies.
- (iv) Citations. ~~or~~
- (v) Prizes.

(C) The exclusive use of the range or facilities.

(D) A portion of the event occurring between sunset and sunrise.

~~(H)~~ **(8)** On a field course, signs and markers must be staked. Trees must not be marked or damaged.

(i) A person must not take a reptile or amphibian unless the person is issued a scientific collector license under 312 IAC 9-10-6. Exempted from this subsection are:

(1) turtles taken under 312 IAC 9-5-2; and

(2) frogs taken under 312 IAC 9-5-3;

from a DNR property where hunting or fishing is authorized. (*Natural Resources Commission; 312 IAC 8-2-3; filed Oct 28, 1998, 3:32 p.m.: 22 IR 739, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 553, eff Jan 1, 2000; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3714; filed Sep 19, 2003, 8:14 a.m.: 27 IR 456; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 14, 2005, 2:45 p.m.: 29 IR 461, eff Jan 1, 2006*)

SECTION 3. 312 IAC 8-2-8 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-2-8 Vehicles, trails, watercraft, and aircraft

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14-22-11-1

Sec. 8. (a) A person must not operate a vehicle:

(1) at a speed greater than:

(A) thirty (30) miles per hour on straight, open stretches of road; or

(B) fifteen (15) miles per hour on steep grades, curves, or where posted; or

(2) other than on a public road.

(b) A person must not park:

(1) a vehicle;

(2) watercraft; or

(3) associated equipment;

except at a site designated by the department.

(c) A person moving cross-country on a trail must remain on the designated pathway for the trail. A person must not:

(1) hike;

(2) bike;

(3) ski;

(4) horseback ride; or

(5) operate an off-road vehicle or snowmobile;

except on a trail designated for the purpose. A person must not ride, lead, drive, or hitch an animal, except where designated by the department.

(d) A person must not operate or maintain a watercraft on a lake:

(1) containing fewer than three hundred (300) acres unless powered only by an electric trolling motor with not more than:

(A) two (2) 12-volt **batteries**; or

(B) one (1) 24-volt battery;

(2) except under motor horsepower and speed zone requirements applicable to the lake; and

(3) for fourteen (14) consecutive days without removal from the lake unless otherwise moored in a designated area.

(e) A person must not launch, dock, or moor a watercraft or another floating device, except for approved periods and at sites designated by the department for those purposes. A person must not:

(1) leave a watercraft unattended in a courtesy dock provided by the department; ~~A person must not or~~

(2) moor a watercraft at a designated group dock or mooring post unless the watercraft exhibits a valid mooring permit.

(f) A person must not leave a vehicle, watercraft, or associated equipment at a **public access site or a public fishing area DNR property** unless the person is actively engaged in the use of:

(1) a DNR property; or

(2) an adjacent:

(A) public freshwater lake; or

(B) navigable waterway.

~~(g) A person must not leave a vehicle, watercraft, or associated equipment in a public parking lot for longer than forty-eight (48) hours.~~

~~(h)~~ **(g)** A person must not land, taxi, take-off, park, or moor:

(1) an aircraft;

(2) a hang glider;

(3) an ultralite;

(4) a powered model aircraft; or

(5) a hot air balloon;

except at a site designated for that purpose or pursuant to a license. (*Natural Resources Commission; 312 IAC 8-2-8; filed Oct 28, 1998, 3:32 p.m.: 22 IR 741, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 555, eff Jan 1, 2000; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3715; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 14, 2005, 2:45 p.m.: 29 IR 463, eff Jan 1, 2006*)

LSA Document #05-18(F)

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Proposed Rule Published: May 1, 2005; 28 IR 2412

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Approved by Attorney General: September 6, 2005

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IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

Final Rules

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-38(F)

DIGEST

Amends 312 IAC 11, which governs construction activities along and within public freshwater lakes, concerning the regulation and treatment of a seawall and to include standards that distinguish a seawall placed in a manmade channel from one placed on a natural shoreline, to allow a bulkhead seawall to be permitted along the upland sides of a manmade channel, to define “natural shoreline”, to amend the definitions of “area of special concern” and “significant wetland”, and to provide discretion to grant a license for a seawall or other structure, which might not otherwise satisfy the rule, where public access is enhanced or where a written assessment by a qualified professional demonstrates a particular methodology is needed to control erosion or to stabilize the shoreline and that the methodology would not violate IC 14-26-2. Effective 30 days after filing with the Secretary of State.

312 IAC 11-2-2	312 IAC 11-2-25.2
312 IAC 11-2-7	312 IAC 11-2-27.5
312 IAC 11-2-11	312 IAC 11-3-3
312 IAC 11-2-11.8	312 IAC 11-4-2
312 IAC 11-2-14.5	312 IAC 11-4-3
312 IAC 11-2-20	312 IAC 11-4-4
312 IAC 11-2-24	312 IAC 11-5-3

SECTION 1. 312 IAC 11-2-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-2-2 “Area of special concern” defined

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
Affected: IC 14-26-2

Sec. 2. “Area of special concern” means an area that contains at least one (1) of the following characteristics:

- (1) An altered shoreline where bulkhead seawalls are at least two hundred fifty (250) feet apart.
- (2) Bogs, fens, muck flats, sand flats, or marl beaches identified by the division of nature preserves in the Natural Community Classification System.
- (3) More than ~~one~~ ~~six~~ hundred ~~(+00)~~ **twenty-five (625)** square feet of contiguous emergent vegetation or rooted vegetation with floating leaves.

(Natural Resources Commission; 312 IAC 11-2-2; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2220; filed Jan 23, 2001, 10:05 a.m.: 24 IR 1614; readopted filed Aug 4, 2005, 6:00 p.m.: 28 IR 3661; filed Sep 14, 2005, 2:45 p.m.: 29 IR 464)

SECTION 2. 312 IAC 11-2-7 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-2-7 “Developed area” defined

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
Affected: IC 14-26-2

Sec. 7. “Developed area” means **the upland side or sides of a manmade channel or an area that** does not contain any of the following characteristics:

- (1) An area of special concern.
- (2) A significant wetland.

(3) A natural shoreline.

(Natural Resources Commission; 312 IAC 11-2-7; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2220; filed Jan 23, 2001, 10:05 a.m.: 24 IR 1614; readopted filed Aug 4, 2005, 6:00 p.m.: 28 IR 3661; filed Sep 14, 2005, 2:45 p.m.: 29 IR 464)

SECTION 3. 312 IAC 11-2-11 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-2-11 “Glacial stone” defined

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
Affected: IC 14-26-2

Sec. 11. “Glacial stone” means a rounded stone that satisfies both *[sic.]* **each** of the following:

- (1) Was produced by glacial activity.
- (2) No individual stone weighs more than one hundred twenty (120) pounds.
- (3) At least ninety percent (90%) of the material passes through a twelve (12) inch sieve.**
- (4) Not more than ten percent (10%) of the material passes through a six (6) inch sieve.**

(Natural Resources Commission; 312 IAC 11-2-11; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2221; readopted filed Aug 4, 2005, 6:00 p.m.: 28 IR 3661; filed Sep 14, 2005, 2:45 p.m.: 29 IR 464)

SECTION 4. 312 IAC 11-2-11.8 IS ADDED TO READ AS FOLLOWS:

312 IAC 11-2-11.8 “Manmade channel” defined

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
Affected: IC 14-26-2

Sec. 11.8. “Manmade channel” means a watercourse created by mechanical means that connects to the lake at one (1) or more points and by its construction increases the total length of shoreline around the lake. The term does not include any areas within the lake cleared by either chemical or mechanical means that do not result in an increase in the total length of shoreline around the lake. *(Natural Resources Commission; 312 IAC 11-2-11.8; filed Sep 14, 2005, 2:45 p.m.: 29 IR 464)*

SECTION 5. 312 IAC 11-2-14.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 11-2-14.5 “Natural shoreline” defined

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
Affected: IC 14-26-2

Sec. 14.5. “Natural shoreline” means a continuous section of unaltered shoreline or waterline where the distance between lawful permanent structures is at least two hundred

fifty (250) feet. (*Natural Resources Commission; 312 IAC 11-2-14.5; filed Sep 14, 2005, 2:45 p.m.: 29 IR 464*)

SECTION 6. 312 IAC 11-2-20 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-2-20 “Riprap” defined

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
 Affected: IC 14-26-2

Sec. 20. “Riprap” means angular, limestone rock that satisfies each of the following conditions:

- (1) No individual piece weighs more than one hundred twenty (120) pounds.
 - (2) At least ninety percent (90%) of the material passes through a twelve (12) inch sieve.
 - ~~(3) Between twenty percent (20%) and sixty percent (60%) of the material passes through a six (6) inch sieve.~~
 - ~~(4) (3) Not more than ten percent (10%) of the material passes through a one and one-half (1½) six (6) inch sieve.~~
- (*Natural Resources Commission; 312 IAC 11-2-20; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2222; readopted filed Aug 4, 2005, 6:00 p.m.: 28 IR 3661; filed Sep 14, 2005, 2:45 p.m.: 29 IR 465*)

SECTION 7. 312 IAC 11-2-24 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-2-24 “Significant wetland” defined

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
 Affected: IC 14-26-2

Sec. 24. “Significant wetland” means a transitional area between terrestrial and deepwater habitats containing at least one (1) of the following:

- (1) At least two thousand five hundred (2,500) square feet of contiguous, emergent vegetation or rooted vegetation with floating leaves landward or lakeward of the legally established or average normal waterline or shoreline. The areal extent of the vegetation is independent of ownership.
- (2) Adjacent wetland areas designated by a federal or state agency under one (1) of the following:
 - (A) National Wetlands Inventory.
 - (B) U.S. Army Corps of Engineers Wetlands Delineation Manual (1987).
 - (C) National Food Security Act Manual (1994).
- (3) The existence of a species listed at 15 IR 1312 in the Roster of Indiana Animals and Plants which [*sic.*] **that** are Extirpated, Endangered, Threatened, or Rare.
- ~~(4) An alteration of the area would result in significant environmental harm.~~
- ~~(5) Unaltered shoreline for at least two hundred fifty (250) feet.~~

(*Natural Resources Commission; 312 IAC 11-2-24; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2222; readopted filed Aug 4, 2005, 6:00 p.m.: 28 IR 3661; filed Sep 14, 2005, 2:45 p.m.: 29 IR 465*)

SECTION 8. 312 IAC 11-2-25.2 IS ADDED TO READ AS FOLLOWS:

312 IAC 11-2-25.2 “Toe protection” defined

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
 Affected: IC 14-26-2

Sec. 25.2. “Toe protection” means the glacial stone or angular, limestone rock that is placed along the lakeward face of a bulkhead seawall to minimize lake bed erosion and undercutting at the base of the seawall and satisfies each of the following:

- (1) No individual piece weighs more than one hundred twenty (120) pounds.**
- (2) At least ninety percent (90%) of the material passes through a twelve (12) inch sieve.**
- (3) Not more than ten percent (10%) of the material passes through a six (6) inch sieve.**
- (4) No individual piece is placed more than one (1) foot lakeward of the lakeward face of a bulkhead seawall.**

(*Natural Resources Commission; 312 IAC 11-2-25.2; filed Sep 14, 2005, 2:45 p.m.: 29 IR 465*)

SECTION 9. 312 IAC 11-2-27.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 11-2-27.5 “Upland side of a manmade channel” defined

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
 Affected: IC 14-26-2

Sec. 27.5. “Upland side of a manmade channel” means those sections of the shoreline along a manmade channel where less than six hundred twenty-five (625) square feet of contiguous emergent vegetation or rooted vegetation with floating leaves are present. (*Natural Resources Commission; 312 IAC 11-2-27.5; filed Sep 14, 2005, 2:45 p.m.: 29 IR 465*)

SECTION 10. 312 IAC 11-3-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-3-3 Written licenses for structures that do not qualify for a general license

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
 Affected: IC 14-11-4; IC 14-26-2

Sec. 3. (a) Except as provided in section 1 of this rule and in subsection (c), a structure placed within the waterline or shoreline of a public freshwater lake requires a written license issued by the department under IC 14-26-2 and this rule.

(b) Except as provided in 312 IAC 11-4-7, a structure that is located on a public freshwater lake:

- (1) more than one hundred fifty (150) feet; and**
- (2) less than two hundred (200) feet;**

from the legally established or average normal waterline or shoreline requires a written license under IC 14-26-2, this rule, IC 14-15-7-3, and ~~310 IAC 2-1-4~~ **312 IAC 5-4**. The department

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may provide that the multiple licensing requirements of this subsection be satisfied with a single written license.

(c) Except as provided in 312 IAC 11-4-7, a structure that is located:

- (1) on a public freshwater lake; and
- (2) not less than two hundred (200) feet from the waterline or shoreline;

does not require a license under IC 14-26-2 and this rule, but the structure does require a license under IC 14-15-7-3 and ~~310 IAC 2-1-4~~ **312 IAC 5-4**. Only a navigation aid or water recreation structure can be licensed under ~~310 IAC 2-1-4~~ **312 IAC 5-4**.

(d) The director or a delegate shall not issue a license under this rule except upon a written determination that shows the following:

- (1) The license, including conditions attached to the license, conforms with IC 14-26-2 and this rule. In making the determination, there shall be a determination that issuance of the permit would not result in significant environmental harm to the public freshwater lake.
- (2) The applicant has demonstrated that an owner of each parcel of real estate, reasonably known to be adjacent to the real estate described in subsection (e)(2), has been notified under IC 14-11-4 and 312 IAC 2-3.

(e) An application for a license under this section must include **a description of** the following:

- (1) ~~A description of~~ The permanent structure, including plans and specifications of sufficient detail for the department to evaluate the project under IC 14-26-2 and this rule.
- (2) ~~A description of~~ The real estate:
 - (A) on which the structure would be located; or ~~which~~
 - (B) **that** the structure would benefit.

(f) Examples of a structure that requires a written license under this section include the following:

- (1) A marina.
- (2) A new seawall or a seawall refacing.
- (3) An underwater beach.
- (4) A boat well excavation, construction, or fill.
- (5) A fish attractor.
- (6) A pier that is supported by a structure permanently:
 - (A) mounted in; or
 - (B) affixed to;

the bed of the lake.

(7) A boathouse that is totally or partially enclosed on the sides. This structure ordinarily should be:

- (A) placed over a boat well constructed landward of the legally established or average normal waterline or shoreline; and
- (B) constructed only after a permit is obtained to alter the legally established or average normal waterline or shoreline.

(g) The requirements of this rule are in addition to the requirements of 312 IAC 6 for any public freshwater lake that is

also a navigable waterway. (*Natural Resources Commission; 312 IAC 11-3-3; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2224; readopted filed Aug 4, 2005, 6:00 p.m.: 28 IR 3661; filed Sep 14, 2005, 2:45 p.m.: 29 IR 465*)

SECTION 11. 312 IAC 11-4-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-4-2 New seawalls

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23

Affected: IC 14-26-2

Sec. 2. (a) A written license under IC 14-26-2 and this rule is required for the construction or placement of a seawall within or along the legally established or average normal waterline or shoreline of a public freshwater lake.

(b) If a new seawall is to be placed:

- (1) in a significant wetland; **or**
- (2) **along a natural shoreline;**

the seawall must be comprised of bioengineered materials.

(c) If a new seawall is to be placed in an area of special concern, the seawall must be comprised of either or both of the following:

- (1) Bioengineered materials.
- (2) Glacial stone.

(d) If a new seawall is to be placed in a developed area, the seawall must be comprised of one (1) or ~~some any~~ combination of the following:

- (1) Bioengineered material.
- (2) Glacial stone.
- (3) Riprap.
- (4) Concrete.
- (5) Steel sheet piling.

(e) For a new seawall comprised of glacial stone or riprap, the base of the wall must not extend more than four (4) feet lakeward of the waterline or shoreline.

(f) The lakeward face of the new seawall must be located along the public freshwater lake's legally established or average normal waterline or shoreline as determined by the department.

(g) The lakeward extent of bioengineered material must be coordinated with the department before filing the license application.

(h) The director or a delegate may not issue a license for the placement of an impermeable material behind or beneath a new seawall.

(i) Filter cloth placed behind or beneath a new seawall must be properly anchored to prevent displacement or flotation.

(j) Erosion from disturbed areas landward of the waterline or

shoreline must be controlled to prevent its transport into the lake.

(k) Toe protection placed along the lakeward face of a new bulkhead seawall must not extend more than one (1) foot lakeward of the new seawall. (*Natural Resources Commission; 312 IAC 11-4-2; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2225; readopted filed Aug 4, 2005, 6:00 p.m.: 28 IR 3661; filed Sep 14, 2005, 2:45 p.m.: 29 IR 466*)

SECTION 12. 312 IAC 11-4-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-4-3 Seawall refacing

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
Affected: IC 14-26-2

Sec. 3. (a) A written license under IC 14-26-2 and this rule is required to reface on the lakeward side of a seawall that is located within or along the waterline or shoreline of a public freshwater lake.

(b) Except as provided in 312 IAC 11-3-1(e), the director or a delegate shall not issue a license to reface a seawall if the wall has been previously refaced.

(c) To qualify for a license if a seawall is to be refaced in a significant wetland or an area of special concern, the seawall reface must be comprised of ~~either or both of like materials in accordance with~~ the following seawall types:

(1) **For an existing concrete seawall, the seawall reface may be comprised of one (1) or any combination of the following:**

- (A) Concrete.
- (B) Glacial stone.
- (C) Bioengineered materials.

(2) **For an existing steel sheet piling seawall, the seawall reface may be comprised of one (1) or any combination of the following:**

- (A) Steel sheet piling.
- (B) Glacial stone.
- (C) Bioengineered materials.

(3) **For an existing riprap seawall, the seawall reface may be comprised of one (1) or any combination of the following:**

- (A) Riprap.
- (B) Glacial stone.
- (C) Bioengineered materials.

(4) **For an existing glacial stone seawall, the seawall reface may be comprised of one (1) or any combination of the following:**

- (A) Glacial stone.
- (B) Bioengineered materials.

(5) **For an existing bioengineered seawall, the seawall reface may be comprised of bioengineered materials only.**

(6) **For all other seawall types, the seawall reface may be comprised of one (1) or any combination of the following:**

- (A) Glacial stone.
- (B) Bioengineered materials.

(d) To qualify for a license if a seawall is to be refaced in a developed area, the seawall reface must be comprised of one (1) or ~~some any~~ combination of the following:

- (1) Bioengineered material.
- (2) Glacial stone.
- (3) Riprap.
- (4) Concrete.
- (5) Steel sheet piling.

(e) For a seawall reface comprised of:

- (1) glacial stone or riprap, the reface must not extend more than four (4) feet lakeward of the waterline or shoreline at the base of the existing wall;
- (2) concrete, the reface must:
 - (A) not extend more than twelve (12) inches lakeward of the existing seawall; and
 - (B) be keyed to the lakeward face of the existing seawall;
- (3) steel sheet piling, the reface must not extend more than six (6) inches lakeward of the existing seawall; and
- (4) bioengineered material, the lakeward extent of the reface must be coordinated with the department before filing the permit application.

(f) Any walk or structural tie constructed on top of the existing seawall must be located landward of the seawall face.

(g) The director or a delegate shall not issue a license for the placement of an impermeable material behind or beneath a seawall reface.

(h) Filter cloth placed behind or beneath the seawall reface must be properly anchored to prevent displacement or flotation.

(i) Erosion from disturbed areas landward of the waterline or shoreline must be controlled to prevent its transport into the lake.

(j) Toe protection placed along the lakeward face of a refaced bulkhead seawall must not extend more than one (1) foot lakeward of the refaced seawall. (*Natural Resources Commission; 312 IAC 11-4-3; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2225; filed Jan 23, 2001, 10:05 a.m.: 24 IR 1616; filed May 25, 2004, 8:45 a.m.: 27 IR 3063; readopted filed Aug 4, 2005, 6:00 p.m.: 28 IR 3661; filed Sep 14, 2005, 2:45 p.m.: 29 IR 467*)

SECTION 13. 312 IAC 11-4-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-4-4 Underwater beaches

Authority: IC 14-10-2-4; IC 14-15-7-3
Affected: IC 14-26-2

Sec. 4. (a) A written license under IC 14-26-2 and this rule is

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required to place material for an underwater beach within a public freshwater lake.

(b) The director or a delegate shall not issue a license for the placement of:

- (1) filter cloth; or
- (2) an impermeable material; beneath or in an underwater beach.

(c) The director or a delegate shall not issue a license for the placement of an underwater beach:

- (1) in a significant wetland; **or**
- (2) **along a natural shoreline.**

(d) To qualify for a license to place an underwater beach in an area of special concern, the underwater beach must:

- (1) not exceed six hundred twenty-five (625) square feet;
- (2) not extend:
 - (A) more than thirty (30) feet lakeward of the normal waterline or shoreline; or
 - (B) to a depth of six (6) feet;whichever occurs earlier;
- (3) be placed on no *[sic.]* **not** more than one-half (½) the length of the waterline or shoreline of the riparian owner;
- (4) be comprised of clean, nontoxic pea gravel;
- (5) not exceed six (6) inches ~~thick~~; **in thickness**; and
- (6) be thin enough or be tapered so the waterline or shoreline will not be extended lakeward when the public freshwater lake is at its average normal water level.

(e) To qualify for a license to place an underwater beach in a developed area, the underwater beach must:

- (1) be comprised of clean, nontoxic pea gravel;
- (2) not exceed six (6) inches thick; *[sic.]* **in thickness**;
- (3) be placed on no *[sic.]* **not** more than one-half (½) the length of the waterline or shoreline of the riparian owner;
- (4) extend ~~no~~ **not**:
 - (A) more than fifty (50) feet lakeward from the waterline or shoreline; or
 - (B) beyond a depth of six (6) feet;whichever occurs earlier; and
- (5) be thin enough or ~~be~~ tapered so the waterline or shoreline will not be extended lakeward when the public freshwater lake is at its normal water level.

(f) If beach material has been placed previously under this section, the additional material must not:

- (1) extend beyond the limits of the previous beach material; and
- (2) exceed the size restrictions specified in subsections (d) and (e).

(g) Erosion from disturbed areas landward of the waterline or shoreline must be controlled to prevent its transport into the lake. (*Natural Resources Commission; 312 IAC 11-4-4; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2226; filed Dec 26, 2001, 2:42*

p.m.: 25 IR 1547; readopted filed Aug 4, 2005, 6:00 p.m.: 28 IR 3661; filed Sep 14, 2005, 2:45 p.m.: 29 IR 467)

SECTION 14. 312 IAC 11-5-3 IS ADDED TO READ AS FOLLOWS:

312 IAC 11-5-3 Licenses to enhance the public trust or to help control erosion

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
Affected: IC 14-26-2

Sec. 3. (a) If an applicant demonstrates to the satisfaction of the department that modifications to conditions required under this article would promote a purpose described in subsection (b) or (c), the director or a delegate may issue a license under this section that incorporates those modifications. A person who wishes to secure a license under this section must confer with the department before filing an application.

(b) If a purpose of the license is to enhance public access to or use of the lake, the department may issue a license to any of the following:

- (1) A government entity.
- (2) A nonprofit organization.
- (3) A lake association.
- (4) An educational institution.

(c) If a purpose of the license is to control erosion and stabilize the shoreline or waterline, the department may issue a license where supported by a written assessment from a registered engineer, geologist, or soil scientist (with expertise in bank stabilization and erosion control practices) that the proposal is the only viable method for controlling erosion and stabilizing the shoreline or waterline. The written assessment must evaluate the following:

- (1) The composition of existing shoreline terrain.
- (2) Impacts due to wind and wave action.
- (3) The severity of erosion and need for bank stabilization.
- (4) The suitability of materials to armor and provide bank stabilization.

(d) The applicant for a license under this section must also demonstrate the proposal would not affect the:

- (1) public safety;
- (2) natural resources;
- (3) natural scenic beauty; or
- (4) water level;

of the lake in a manner otherwise prohibited by IC 14-26-2.

(e) The following materials do not qualify for a license under this section:

- (1) Railroad ties.
- (2) Treated timber.
- (3) Broken concrete.
- (4) Tires.
- (5) Scrap metal, appliances, or vehicle bodies.

(6) Asphalt.

(7) Another material determined by the department to be unsuitable for satisfying the requirements of this section.

(Natural Resources Commission; 312 IAC 11-5-3; filed Sep 14, 2005, 2:45 p.m.: 29 IR 468)

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TITLE 315 OFFICE OF ENVIRONMENTAL ADJUDICATION

LSA Document #05-73(F)

DIGEST

Amends 315 IAC 1-2-1 and 315 IAC 1-3 and adds 315 IAC 1-3-2.1 and 315 IAC 1-3-15 concerning errata, a change in address, clarifications regarding amendment of pleadings, and filing procedures. Effective 30 days after filing with the Secretary of State.

315 IAC 1-2-1	315 IAC 1-3-7
315 IAC 1-3-1	315 IAC 1-3-8
315 IAC 1-3-2	315 IAC 1-3-9
315 IAC 1-3-2.1	315 IAC 1-3-10
315 IAC 1-3-3	315 IAC 1-3-12
315 IAC 1-3-4	315 IAC 1-3-14
315 IAC 1-3-5	315 IAC 1-3-15

SECTION 1. 315 IAC 1-2-1 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-2-1 Definitions

Authority: IC 4-21.5-7-7

Affected: IC 4-21.5-1-4; IC 4-21.5-3-27; IC 4-21.5-7-1; IC 4-21.5-7-2; IC 13-17-1; IC 13-18-1; IC 13-19-2; IC 13-23-11

Sec. 1. In addition to the definitions contained in IC 4-21.5-1, the definitions in this section apply throughout this title:

(1) "Act" means IC 4-21.5-7.

(2) "Agency" means the Indiana department of environmental management.

(3) (1) "Board" means a board established or created under IC 13-7-2, IC 13-17-1, IC 13-18-1, IC 13-9-2, IC 13-19-2, or IC 13-23-11.

(4) (2) "Commissioner" means the commissioner of the department of environmental management agency or the commissioner's designee.

(5) (3) "Confidential information" means any information that:

(A) is entitled to treatment as; or that

(B) has been determined to be;

confidential information under 326 IAC 17-1, 327 IAC 12-1, or 329 IAC 6-1, 326 IAC 17.1, 327 IAC 12.1, or 329 IAC 6.1 and includes any information submitted to the office of environmental adjudication under claim of confidentiality during the pendency of a final determination of the claim.

(4) "Department" has the meaning set forth in IC 13-11-1-51 [sic].

(6) (5) "Decision" means an agency action as prescribed by IC 4-21.5-1-4 of the department.

(7) (6) "Director" means the director of the office of environmental adjudication.

(8) (7) "Electronic facsimile transmission" or "fax" means a method of transmitting and receiving information in eight and one-half (8½) × inch by eleven (11) inch paper medium over telephone lines or other forms of electronic transmissions available to the office.

(9) (8) "Environmental law judge" or "ELJ" means an individual acting in the capacity of an administrative law judge in a proceeding under IC 4-21.5.

(10) (9) "Final order" means an order of the environmental law judge, ELJ, acting as ultimate authority, disposing of the proceeding prescribed by IC 4-21.5-3-27.

(11) (10) "Office" means the Indiana office of environmental adjudication.

(12) Notwithstanding IC 4-21.5-1-10, "party" means any person that is designated in the record of the proceeding as a party to the proceeding.

(13) (11) "Presiding environmental law judge" means the environmental law judge assigned by the director to preside over a particular proceeding.

(Office of Environmental Adjudication; 315 IAC 1-2-1; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3732; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 469)

SECTION 2. 315 IAC 1-3-1 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-1 Powers and duties of the director, presiding environmental law judge, and office of environmental adjudication

Authority: IC 4-21.5-7-7

Affected: IC 4-21.5-3-24; IC 4-21.5-3.5; IC 4-21.5-6-2; IC 4-21.5-7-6; IC 5-14-3-8

Sec. 1. (a) An environmental law judge ELJ shall do the following:

(1) Conduct a fair and impartial proceeding.

(2) Maintain an accurate and complete record.

(3) Adjudicate all issues necessary for resolution of the matter; and

(4) Avoid delay.

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(b) The ~~environmental law judge~~ **ELJ** shall have authority to do the following:

(1) Conduct administrative hearings under **the following**:

- (A) IC 4-21.5. ~~and~~
- (B) This article.

(2) Rule upon **the following**:

- (A) Motions.
- (B) Requests. ~~and~~
- (C) Offers of proof.

(3) Dispose of procedural requests. ~~and~~

(4) Issue all necessary orders.

~~(3)~~ (5) Administer oaths and affirmations. ~~and~~

(6) Consider affidavits submitted by the parties.

~~(4)~~ (7) Examine witnesses.

(8) Admit:

- (A) purported scientific evidence; and
- (B) related opinions;

into evidence in accordance with applicable Indiana trial rules on admissibility of testimony by experts.

(9) Allocate among the parties appropriate costs ~~pursuant to~~ **under** IC 5-14-3-8 for the office's production of documents.

(10) Order the prefilings of testimony.

(11) Solicit testimony in appropriate cases. ~~and~~

(12) Receive documentary or other evidence.

~~(5)~~ (13) For good cause, upon motion or sua sponte, order a party, or an officer or agent thereof, to produce:

- (A) testimony;
- (B) documents; or
- (C) other nonprivileged evidence;

and failing the production thereof without good cause being shown, draw an adverse inference against that party.

~~(6)~~ (14) Admit, limit, or exclude evidence in accordance with IC 4-21.5.

~~(7)~~ (15) Hear and decide questions of facts and law.

~~(8)~~ (16) Issue:

- (A) subpoenas; ~~and~~
- (B) subpoenas deuces [*sic.*, *duces*] tecum.

~~(9)~~ (17) Require parties to:

- (A) attend conferences for the settlement or simplification of the issues; ~~to~~
- (B) expedite the proceedings; or ~~to~~
- (C) participate in alternative dispute resolution.

~~(10)~~ (18) Where ~~no~~ **not** inconsistent with IC 4-21.5 and this title, the presiding environmental law judge may apply the Indiana Rules of Trial Procedure, **except for those trial rules that provide for provisional and final remedies and Special Proceedings (TR 64 through 71), except as provided in section 2.1(c) of this rule.**

~~(11)~~ (19) In addition to the remedies provided in IC 4-21.5-3-24, to impose reasonable and appropriate sanctions ~~pursuant to~~ **under the following**:

- (A) IC 4-21.5-6-2. ~~and~~
- (B) Indiana Trial Rules 26 through 37.

~~(12)~~ (20) Do all other acts and take all measures necessary for the:

(A) maintenance of order; and

(B) for the efficient, fair, and impartial adjudication of issues arising;
in proceedings governed by this article.

~~(13)~~ (21) Determine whether mediation is an appropriate means of alternative dispute resolution for each type of administrative proceeding in accordance with IC 4-21.5-3.5.

(c) For failure to attend a prehearing conference, the presiding ~~environmental law judge~~ **ELJ** may **do the following**:

(1) Strike claims or defenses.

(2) Default or dismiss a party ~~pursuant to~~ **under** IC 4-21.5-3-24.

(Office of Environmental Adjudication; 315 IAC 1-3-1; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3733; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 469)

SECTION 3. 315 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-2 Initiation of a proceeding for administrative review

Authority: IC 4-21.5-7-7

Affected: IC 4-21.5-3-7; IC 4-21.5-3-15; IC 4-21.5-4; IC 13-15-6-1

Sec. 2. (a) A proceeding before the office is initiated when a petition for administrative review, which may include a request for a stay, in writing, is filed with the Office of Environmental Adjudication, ~~150 West Market Street, Suite 618; Indiana Government Center-North, 100 North Senate Avenue, Room N1049, Indianapolis, Indiana 46204.~~ **46204-2211.**

(b) The petition for administrative review shall contain the following information:

(1) **The**:

- (A) name;
- (B) address; ~~and~~
- (C) telephone number;

of each person filing the petition.

(2) Identification of the interest of each petitioner in the subject of the petition.

(3) A statement demonstrating that the petitioner is:

- (A) a person to whom the order is directed;
- (B) aggrieved or adversely affected by the order; or
- (C) entitled to review under any law.

(4) ~~Statement~~ **State** with particularity the legal issues proposed for consideration in the proceedings ~~and as follows~~:

(A) In a case involving an appeal of a permit, **identify the following**:

- ~~(A)~~ **(i)** Environmental concerns or technical deficiencies related to the action of the commissioner ~~which that~~ is the subject of the petition; and
- ~~(B)~~ **(ii)** Permit terms and conditions that the petitioner contends would be appropriate to comply with the law applicable to the contested permit.

(B) In a case involving any other appeal of an order of the commissioner, identify those:

- (i) facts;**
- (ii) terms; or**
- (iii) conditions;**

for which the petitioner requests review.

(c) The petition for administrative review ~~should~~ **shall** also contain the following information:

- (1) Identification of any persons represented by the person making the request ~~pursuant to~~ **under** IC 4-21.5-3-15.
- (2) A statement identifying the person against whom administrative review is sought.
- (3) A copy of the **pertinent portions of the** notice of the commissioner's action issued by the department of ~~environmental management~~ **which that** is the basis of the petition for administrative review. **This shall, at a minimum, consist of that portion of the commissioner's action that identifies the following:**

(A) The person to whom the action is directed.

(B) The identification number of the action.

- (4) A statement indicating the identification of the petitioner's attorney or other representative.

(d) A petition for administrative review, filed ~~pursuant to~~ **under** IC 4-21.5-3-7(a), may be amended **as a matter of course at any time within thirty (30) days after the earlier of the following dates:**

- (1) The initial prehearing conference.**
- (2) The filing of a motion to dismiss.**

Otherwise, a party may amend his or her petition only by leave of the presiding ELJ or by written consent of all parties.

(e) If the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading.

~~(e)~~ **(f) Copies of the petition for administrative review shall be sent to the following:**

- (1) The agency and to any persons whose interest is affected by the petition: department.**
- (2) All persons to whom the order is directed.**

(Office of Environmental Adjudication; 315 IAC 1-3-2; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3733; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 470)

SECTION 4. 315 IAC 1-3-2.1 IS ADDED TO READ AS FOLLOWS:

315 IAC 1-3-2.1 Stay

Authority: IC 4-21.5-3; IC 4-21.5-4; IC 4-21.5-7-7
Affected: IC 13-15-6-1; IC 13-30-3-5

Sec. 2.1. (a) A stay applies automatically upon the filing of a timely petition for review when a person petitions for review of an order of the commissioner directed to that person under IC 13-30-3-5.

(b) Except as provided in subsection (a), the party requesting a stay of effectiveness has the burden of demonstrating, by a preponderance of the evidence, the following:

- (1) The person will suffer irreparable harm pending the resolution of the case on the merits because its remedies at law are inadequate.**
- (2) The person is likely to prevail on the merits.**
- (3) The threatened injury to the person requesting the stay outweighs the threatened harm that the grant of the stay may inflict on the other party.**
- (4) The public interest will be served by the grant of the stay.**

(c) A temporary emergency stay order may be granted without a hearing under the following circumstances:

- (1) Upon written notice to the other parties or their attorneys only if it clearly appears:**

(A) from specific facts shown by affidavit;

(B) or by a verified motion;

that immediate and irreparable injury, loss, or damage will result to the applicant before the other parties can be heard in opposition.

- (2) The resulting order shall include a brief statement of the facts and the laws that justify the office's decision to issue the emergency order.**
- (3) The matter shall be set for an evidentiary hearing as quickly as practicable.**
- (4) An order issued under this section expires on the earliest of the following:**

(A) The date set in the order.

(B) The date of the evidentiary hearing held under subsection (b).

(C) The lapse of sixty (60) days.

(Office of Environmental Adjudication; 315 IAC 1-3-2.1; filed Sep 16, 2005, 1:40 p.m.: 29 IR 471)

SECTION 5. 315 IAC 1-3-3 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-3 Filing and service of pleadings and documents

Authority: IC 4-21.5-2-1; IC 4-21.5-3-35; IC 4-21.5-7-7
Affected: IC 4-21.5-3-1; IC 4-21.5-3-2; IC 13-15-6-1

SECTION 5. 315 IAC 1-3-3 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-3 Filing and service of pleadings and documents

Authority: IC 4-21.5-2-1; IC 4-21.5-3-35; IC 4-21.5-7-7
Affected: IC 4-21.5-3-1; IC 4-21.5-3-2; IC 13-15-6-1

Sec. 3. (a) The requirements for the filing of pleadings and documents are as follows:

- (1) The burden of proof for the timely filing of pleadings and documents with the office is on the person so filing.**
- (2) The computation of any period of time under these rules is prescribed by IC 4-21.5-3-2.**
- (3) The filing of a petition for administrative review with an environmental law judge ELJ may be completed, pursuant to under IC 4-21.5-3-1(f), by any of the following methods:**

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- (A) Personal delivery.
- (B) First class, **priority, or express United States** mail.
- (C) Certified mail.
- (D) Private carrier.
- (E) **Electronic fax transmission. All documents filed by fax must be accompanied by a descriptive cover sheet that states the following:**
 - (i) **The title of the document.**
 - (ii) **The number of pages.**
 - (iii) **The identity and voice telephone number of the sending party.**

Filing by fax shall be followed by the filing of the signed original and attachments with the office by one (1) of the methods specified in this subdivision within one (1) day after the document is filed by fax.

(4) The filing of any other document or pleading with an ~~environmental law judge ELJ~~ may be completed, pursuant to **under IC 4-21.5-3-1(f)**, by any of the following methods:

- (A) Personal delivery.
- (B) First class, **priority, or express United States** mail.
- (C) Certified mail.
- (D) Private carrier.
- (E) Electronic facsimile transmission. ~~including the following:~~

~~(i) Filing by facsimile shall be followed by the filing of the signed original with the office by one (1) of the methods specified in subsection (a)(3) of this section within one (1) day after the document is filed by facsimile.~~

~~(ii) All documents filed by facsimile fax must be accompanied by a descriptive cover sheet which that states the following:~~

- ~~(AA) (i) The title of the document.~~
- ~~(BB) (ii) The case number.~~
- ~~(CC) (iii) The number of pages.~~
- ~~(DD) (iv) The identity and voice telephone number of the sending party.~~
- ~~(EE) (v) The instructions for filing.~~

~~(FF) The signature of the person authorizing the filing.~~

(F) If all parties and the presiding ELJ consent, by any other means.

(5) Fax transmissions will be accepted for filing only during the regular business hours as set forth in subsection (d). Transmissions received by the office after close of business shall be filed effective the next regular business day.

(b) The requirements for service of pleadings and documents are as follows:

- (1) All documents and pleadings filed with the presiding ~~environmental law judge ELJ~~ shall be served on all parties.
- (2) If a party is represented by an attorney or another authorized representative, service of a document must be made upon the attorney or other authorized representative. If ~~an individual a party~~ appears without separate representation, service must be made upon the ~~individual party~~.

(3) A signed certificate of service, **in substantially the following form**, stating "I certify that on the ____ day of [month], [year], service of a true and complete copy of [document being forwarded] was made upon each party or attorney of record herein by [identifying any of the methods of service prescribed by **subsection (a)(3) or (4) above**"]; ~~(a)(4)]", shall accompany each document filed or served.~~

(4) When the presiding ~~environmental law judge ELJ~~ corresponds directly with the parties:

(A) the original of the correspondence shall be maintained by the presiding ~~environmental law judge ELJ~~ in the official file; and

(B) a copy shall be sent to all parties. ~~by certified mail; return receipt requested; first class mail; personal service; or overnight; express mail~~

(c) The filing of a document with the office is complete on the earliest of the following:

(1) The date on which the document is delivered to the office.

(2) The date of the postmark on the envelope containing the document if the document is mailed to the office by United States mail.

(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the office by private carrier.

~~(d) Where the date of filing or service is determined by the date of delivery to or receipt at the office, all filing or service deliveries received after ~~4:45~~ 4:30 p.m., EST, will be deemed to have been received on the next following regular day. However, a document filed by ~~electronic facsimile fax~~ shall be deemed to be filed on the date on which it is electronically submitted. (*Office of Environmental Adjudication; 315 IAC 1-3-3; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3734; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 471*)~~

SECTION 6. 315 IAC 1-3-4 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-4 Form of pleadings and documents

Authority: IC 4-21.5-2-1; IC 4-21.5-3-35; IC 4-21.5-7-7

Affected: IC 4-21.5-3; IC 13

Sec. 4. (a) **The form of pleadings and documents shall be as follows:**

(1) The petition for administrative review shall be in the form prescribed by section 2 of this rule.

(2) The first page of every ~~subsequent~~ pleading, letter, or other document filed thereafter shall contain a caption identifying the:

(A) ~~action; and~~

(B) the case number; that has been assigned by the office. ~~of environmental adjudication.~~

(3) The original of any pleading, letter, or other document, excepting exhibits, shall be signed by the party filing or by the party's counsel. The signature constitutes a representation by the signer that:

- (A) the signer has read the pleadings, letter, or other document; ~~that~~
- (B) to the best of the signer's knowledge, information, and belief, the statements made therein are true; and ~~that~~
- (C) it is not interposed for delay.

(4) Attachments to pleadings, including, but not limited to, the permit, may be submitted electronically as follows:

- (A) In a compatible format to the office.**
- (B) To the other parties only with their consent.**

(b) Any changes in name, mailing address, or telephone number occurring during the course of a proceeding shall be communicated promptly in writing to the presiding ~~environmental law judge ELJ~~ and all parties to the proceeding. Service of orders or correspondence from the office shall be made to the last known address on file.

(c) Nothing in this section shall be construed to modify the time in which a party is otherwise required to file under:

- (1) IC 4-21.5;
- (2) IC 13; or
- (3) this article.

(Office of Environmental Adjudication; 315 IAC 1-3-4; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3734; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 472)

SECTION 7. 315 IAC 1-3-5 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-5 Request for extension of time for filing pleading, document, or motion

Authority: IC 4-21.5-2-1; IC 4-21.5-7-7
Affected: IC 4-21.5-3-34; IC 4-21.5-3-35

Sec. 5. ~~(a)~~ Unless prohibited by statute, the presiding ~~environmental law judge ELJ~~ may grant an extension of time for the filing of any pleading, document, or motion **as follows:**

- (1) Upon timely motion of a party to the proceeding.
- (2) After notice to all other parties unless the moving party can show good cause why serving notice is impracticable. ~~and~~
- (3) After consideration of prejudice to other parties.

~~(b) Unless prohibited by statute, the presiding environmental law judge may grant an extension of time for the filing of any pleading, document, or motion whenever all parties have consented to such extension: (Office of Environmental Adjudication; 315 IAC 1-3-5; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3735; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 473)~~

SECTION 8. 315 IAC 1-3-7 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-7 Defaults and dismissals

Authority: IC 4-21.5-7-7
Affected: IC 4-21.5-3-24

Sec. 7. (a) An ~~environmental law judge ELJ~~ may enter a final order of dismissal if the person who initiated administrative review requests the proceeding be dismissed.

(b) An ~~environmental law judge ELJ~~ may, sua sponte or upon the motion of a ~~person, party,~~ enter and serve upon all parties a proposed order of default or ~~proposed order of dismissal~~ under IC 4-21.5-3-24 if at least one (1) of the following applies:

- (1) A party fails to:
 - (A) file a ~~ressponsible responsive~~ pleading required by statute or rule; **or**
 - ~~(2) A party fails to~~ (B) attend or participate in a prehearing conference, hearing, or other stage of the proceeding.
- ~~(2)~~ (2) The party responsible for taking action does not take action on a matter for a period of at least sixty (60) days.
- ~~(3)~~ (3) The ~~person party~~ seeking administrative review does not qualify for review under IC 4-21.5.

(c) Within seven (7) days after service of a proposed order of default or dismissal, a party may file a written motion:

- (1) requesting the order not be imposed; and
- (2) stating the grounds relied upon.

(d) During the time within which a party may file a written motion under subsection (c), the presiding ~~environmental law judge ELJ~~ may:

- (1) adjourn the proceedings; or
 - (2) conduct them without participation of the party against whom a proposed default order was issued;
- having due regard for the interest of justice and the orderly and prompt conduct of the proceeding.

(e) If the party fails to file a written motion under subsection (c), the presiding ~~environmental law judge ELJ~~ shall issue an order of default or dismissal. If the party has filed a written motion under subsection (c), the presiding ~~environmental law judge ELJ~~ may either enter or refuse to enter the order of default or dismissal.

(f) After issuing an order of default, but before issuing a final order or disposition, the presiding ~~environmental law judge ELJ~~ shall:

- (1) conduct any action necessary to complete the proceeding without the participation of the party in default; and ~~shall~~
- (2) determine all issues in the adjudication, including those affecting the defaulted party.

(Office of Environmental Adjudication; 315 IAC 1-3-7; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3735; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 473)

SECTION 9. 315 IAC 1-3-8 IS AMENDED TO READ AS FOLLOWS:

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315 IAC 1-3-8 Informal settlement; alternative dispute resolution

Authority: IC 4-21.5-2-1; IC 4-21.5-3-35; IC 4-21.5-3.5-1; IC 4-21.5-7-7
Affected: IC 4-21.5-3.5-2; IC 4-21.5-5-5; IC 13-30-3-5; IC 13-30-3-6

Sec. 8. (a) Settlement among and between the parties is encouraged at any time when **the settlement is:**

- (1) ~~the settlement is~~ within the legal authority of the ~~agency;~~ **department;** and
- (2) ~~the settlement is~~ consistent with the prescriptions and objectives of:
 - (A) IC 4-21.5;
 - (B) ~~IC 13-7;~~ **IC 13;**
 - (C) ~~IC 13-30;~~ and
 - (D) (C) applicable environmental regulations.

(b) In the event the parties reach a settlement **resolving all issues in controversy** regarding the appeal of a permit, ~~the parties to the settlement shall file with the presiding environmental law judge; a joint or stipulated motion to dismiss or withdraw petition for administrative review identifying the resolving all issues raised in the petition for in controversy, the party who initiated administrative review that have been disposed of by the settlement document or agreement between the parties: shall submit a written motion requesting that the proceeding be dismissed.~~ The parties need not file the settlement document or agreement with the presiding **environmental law judge ELJ. The presiding ELJ shall then enter a final order of dismissal.**

(c) In the event the parties reach a settlement **resolving all issues in controversy** regarding the appeal of a commissioner's order as prescribed by IC 13-30-3-5, before the:

- (1) presiding ~~environmental law judge ELJ~~ issues a final order; and ~~the~~
 - (2) commissioner approves an agreed order based on the settlement as provided by IC 13-30-3-6;
- the parties shall notify the presiding **environmental judge ELJ** who shall then enter a final order **of dismissal.**

(d) For each type of administrative proceeding, the presiding ~~environmental law judge ELJ~~ shall determine whether mediation is an appropriate means of alternative dispute resolution pursuant to ~~under~~ IC 4-21.5-3.5.

(e) In the event the presiding environmental law judge determines mediation is an appropriate means of alternative dispute resolution, the parties to the mediation shall comply with ~~IC 4-21.5-3-5; IC 4-21.5-3.5.~~ (*Office of Environmental Adjudication; 315 IAC 1-3-8; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3736; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 474*)

SECTION 10. 315 IAC 1-3-9 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-9 Conduct of prehearing conference

Authority: IC 4-21.5-7-7
Affected: IC 4-21.5-3-19; IC 4-21.5-3-35

Sec. 9. (a) In addition to IC 4-21.5-3-19, ~~the following may apply to for~~ prehearing conferences, **the parties could be required to do the following:**

(1) ~~Parties could be required to~~ Set a date to exchange the following:

(A) Witness lists ~~which that~~ shall contain the names and addresses of all witnesses expected to be relied upon at the hearing, other than witnesses intended to be used solely for the purpose of impeachment or rebuttal **as follows:**

(A) (i) The names and addresses of witnesses discovered after the exchange of lists shall be furnished to the opposing party ~~forthwith at once~~ upon such discovery.

(B) (ii) Witnesses, whose names and addresses have not been exchanged, shall not be allowed to testify without permission of the presiding ~~environmental law judge.~~ **ELJ.**

(C) (iii) The names of any witnesses to testify as experts shall be accompanied with a brief narrative summary of the witnesses' expected testimony.

(2) ~~Parties could be required to~~ (B) Set a date for exchange of items intended to be offered as exhibits **as follows:**

(A) (i) Copies of exhibits discovered after such exchange shall be furnished to the opposing party forthwith upon such discovery.

(B) (ii) Documents and exhibits that have not been exchanged shall not be introduced into evidence without the permission of the presiding ~~environmental law judge.~~ **ELJ.**

(C) (iii) The presiding ~~environmental law judge ELJ~~ shall allow the parties reasonable opportunity to review and respond to new evidence.

(3) ~~The parties could be required to~~ (2) Set a date for stipulations to be entered with parties stipulating to the fullest extent possible the following:

(A) Issues.

(B) Undisputed facts.

(C) Authenticity and admissibility of exhibits. ~~and~~

(D) Any and all other matters ~~which that~~ will expedite the hearing by reducing formal proof.

(4) ~~The parties could be required to~~ (3) File a statement with the presiding ~~environmental law judge ELJ~~ as to all existing disputed issues of fact and law of the cause of action.

(5) ~~The parties could be required to~~ (4) Be prepared to discuss any presently contemplated or pending preliminary motions.

(b) No transcript of any prehearing conferences shall be made by the office unless:

(1) requested upon timely motion by a party; and

(2) ordered by the presiding ~~environmental law judge.~~ **ELJ.**

(c) **If no transcript is required, the parties have the option of conducting the prehearing conference by telephone. The**

party wishing to conduct the prehearing conference telephonically shall:

- (1) contact the other parties;
- (2) secure their agreement to conduct the prehearing conference by telephone; and
- (3) notify the office at least one (1) business day in advance of the scheduled prehearing conference.

The party requesting the telephonic prehearing conference has the obligation of initiating the necessary phone calls. The party should have all the other parties on the telephone before contacting the ELJ. (*Office of Environmental Adjudication; 315 IAC 1-3-9; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3736; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 474*)

SECTION 11. 315 IAC 1-3-10 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-10 Conduct of hearing; separation of witnesses

Authority: IC 4-21.5-7-7
 Affected: IC 4-21.5-3-34; IC 4-21.5-3-35

Sec. 10. (a) The presiding environmental law judge ELJ shall govern the:

- (1) conduct of a hearing; and
- (2) the order of proof.

(b) The office's review of a department decision is de novo.

~~(b)~~ (c) On a motion by a party, before the commencement of testimony, the presiding environmental law judge ELJ may provide for a separation of witnesses. (*Office of Environmental Adjudication; 315 IAC 1-3-10; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3736; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 475*)

SECTION 12. 315 IAC 1-3-12 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-12 Continuances of prehearing conference, status conference, stay hearing, and hearing

Authority: IC 4-21.5-7-7
 Affected: IC 4-21.5-3-34; IC 4-21.5-3-35

Sec. 12. (a) Unless ~~prohibited~~ **prohibited** by statute, the presiding environmental law judge ELJ may grant a continuance of a prehearing conference, status conference, stay hearing, or hearing as follows:

- (1) Upon the motion of a party to the proceeding:
 - (A) at least five (5) days in advance of the date ~~on which~~ of the prehearing conference, status conference, stay hearing, or hearing; or
 - (B) ~~upon~~ **for** a showing of good cause for a shorter time period.

- (2) After notice to all other parties. ~~and~~
- (3) After consideration of prejudice to other parties.

The party requesting the continuance shall state in the motion what efforts were made to contact the other parties and whether any other party objects to the motion.

(b) A motion to continue a hearing because of the absence of evidence must be made upon affidavit and must show the following:

- (1) The materiality of the evidence expected to be obtained.
- (2) That due diligence has been used to obtain the evidence.
- (3) The possible location of the evidence.
- (4) If based on the absence of a witness, **the following:**
 - (A) The name and address of the witness, if known.
 - (B) The probability of procuring the testimony in a reasonable time.
 - (C) That absence of the witness was not procured by:
 - (i) the party; ~~nor by or~~
 - (ii) others at the request, knowledge, or consent of the party.
 - (D) What facts the party believes to be true. ~~and~~
 - (E) That the party is unable to prove the facts by another witness whose testimony can be readily procured.

(c) If, upon the receipt of a continuance motion under subsection (b), the adverse party stipulates to the truth of the facts the party seeking the continuance indicated could not be presented, the hearing shall not be continued.

~~(d) The presiding environmental law judge shall grant the continuance whenever all parties have consented to such continuance.~~ (*Office of Environmental Adjudication; 315 IAC 1-3-12; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3737; errata, 21 IR 4215; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 475*)

SECTION 13. 315 IAC 1-3-14 IS AMENDED TO READ AS FOLLOWS:

315 IAC 1-3-14 Petition for judicial review

Authority: IC 4-21.5-7-7
 Affected: IC 4-21.5-5-1; IC 4-21.5-5-8

Sec. 14. (a) A ~~person~~ **party** who wishes to take judicial review of a final order entered under this article shall serve copies of the petition for judicial review upon the persons described in IC 4-21.5-5.

(b) The copy of the petition required under IC 4-21.5-5-8(a)(1) to be served upon the ultimate authority shall be served upon the environmental law judge ELJ issuing the order being appealed at the following address:

Office of Environmental Adjudication
 150 West Market Street
 Suite 618
Indiana Government Center-North
100 North Senate Avenue, Room N1049
 Indianapolis, Indiana ~~46204~~: **46204-2211**.

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(Office of Environmental Adjudication; 315 IAC 1-3-14; filed Jun 2, 1998, 3:47 p.m.: 21 IR 3738; readopted filed Aug 11, 2004, 12:04 p.m.: 28 IR 323; filed Sep 16, 2005, 1:40 p.m.: 29 IR 475)

SECTION 14. 315 IAC 1-3-15 IS ADDED TO READ AS FOLLOWS:

315 IAC 1-3-15 Representatives and attorneys; eligibility to practice

Authority: IC 4-21.5-7-7
Affected: IC 4-21.5-3

Sec. 15. (a) All attorneys who appear in a representative capacity on behalf of a party must file written notice of appearance setting forth the following:

(1) The:

- (A) name;**
- (B) address;**
- (C) telephone number;**
- (D) fax number; and**
- (E) electronic mail address;**

of the attorney.

(2) The name and address of the party.

(3) The Indiana attorney number.

(4) If not licensed in Indiana, the following:

- (A) A verified statement that the attorney is in good standing.**
- (B) A designation of the jurisdiction in which the attorney is currently licensed to practice law.**
- (C) The attorney registration number.**

(5) If an attorney files a petition for review of behalf of his or her client that contains the information required by subdivisions (1) through (4), the petition shall serve as a written notice of appearance.

(b) A representative that is not an attorney of a party must file written notice of the representation. Nothing in this subsection relieves a person from compliance with Rule 5.5 of the Indiana Rules of Professional Conduct. The written notice shall include the following:

- (1) The information requested in subsection (a)(1) and (a)(2).**
- (2) The written consent of each party whom the representative purports to represent.**

(c) The presiding ELJ may require an attorney or representative appearing before the office to:

- (1) disclose the identity of the person the attorney or representative represents; and**
- (2) present proof that the attorney or representative is authorized to act on the client's behalf.**

(d) An attorney may only withdraw his or her appearance upon written notice to the presiding ELJ. (Office of Environmental Adjudication; 315 IAC 1-3-15; filed Sep 16, 2005, 1:40 p.m.: 29 IR 476)

LSA Document #05-73(F)

Notice of Intent Published: May 1, 2005; 28 IR 2407

Proposed Rule Published: June 1, 2005; 28 IR 2772

Hearing Held: June 28, 2005

Approved by Attorney General: August 15, 2005

Approved by Governor: September 15, 2005

Filed with Secretary of State: September 16, 2005, 1:40 p.m.

IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #04-234(F)

DIGEST

Amends 326 IAC 6.5-7-13 so rule language is consistent with permit specifications. Effective 30 days after filing with the Secretary of State.

HISTORY

First Notice of Comment Period: September 1, 2004, Indiana Register (27 IR 4144).

Second Notice of Comment Period: November 1, 2004, Indiana Register (28 IR 680).

Notice of First Hearing: November 1, 2004, Indiana Register (28 IR 680).

Date of First Hearing: February 2, 2005.

Proposed Rule and Notice of Second Hearing: March 1, 2005, Indiana Register (28 IR 1813).

Date of Second Hearing: June 1, 2005.

Finally Adopted: June 1, 2005.

326 IAC 6.5-7-13

SECTION 1. 326 IAC 6.5-7-13, AS ADDED AT 28 IR 3487, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

326 IAC 6.5-7-13 Saint Mary's

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 13. (a) Saint Mary's in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Saint Mary's Natural gas fired with fuel oil No. 2 as a backup	01 03	54P 56P	Boiler No. 2 1 gas fired 63 31.5 MMBtu/Hr.	12.90 3.9	0.110	0.014
Natural gas fired with fuel oil No. 2 as a backup	02 01	55P 54P	Boiler No. 3 2 gas fired 63 MMBtu/Hr.	12.90 3.9	0.110	0.014
100% natural gas	03 02	56P 55P	Boiler No. 4 3 gas fired 63 MMBtu/Hr.			

(b) Boiler No. ~~4~~ **3** at Saint Mary's, identified in subsection (a) as one hundred percent (100%) natural gas burner, shall burn only natural gas. (*Air Pollution Control Board; 326 IAC 6.5-7-13; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3487; filed Oct 3, 2005, 10:00 a.m.: 29 IR 476*)

LSA Document #04-234(F)
Proposed Rule Published: March 1, 2005; 28 IR 1813
Hearing Held: June 1, 2005
Approved by Attorney General: September 23, 2005
Approved by Governor: October 3, 2005
Filed with Secretary of State: October 3, 2005, 10:00 a.m.
IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

655 IAC 1-1-5.1
655 IAC 1-2.1-111
655 IAC 1-2.1-112

655 IAC 1-2.1-113
655 IAC 1-2.1-114
655 IAC 1-2.1-115

SECTION 1. 655 IAC 1-1-5.1, AS AMENDED AT 28 IR 2693, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

655 IAC 1-1-5.1 Certifications under this rule; requirements

Authority: IC 22-14-2-7
Affected: IC 22-14-2-7

Sec. 5.1. (a) Any Indiana fire service person may enter the voluntary certification program by submitting an application and verification by competency based testing for the certification sought. Applications shall be **as follows:**

- (1) Legibly signed by the authorized instructor who has taken responsibility for the verified competencies.
- (2) Legibly completed in full. ~~and~~
- (3) Provided by the board upon request.

(b) Any Indiana nonfire service person may enter the voluntary certification program by submitting an application and verification by competency based testing for the certification sought. Applications shall be **as follows:**

- (1) Legibly signed by the authorized instructor who has taken responsibility for the verified competencies.
- (2) Legibly completed in full. ~~and~~
- (3) Provided by the board upon request.

(c) Certifications are available for the following:

- (1) Fire service person as follows:

**TITLE 655 BOARD OF FIREFIGHTING
PERSONNEL STANDARDS AND EDUCATION**

LSA Document #04-297(F)
DIGEST

Amends 655 IAC 1-1-5.1 and adds 655 IAC 1-2.1-111 through 655 IAC 1-2.1-115 to add certifications for National Incident Management System-First Responder certifications and make conforming section changes. Effective 30 days after filing with the Secretary of State.

Certification	Requirements
Basic Firefighter	655 IAC 1-2.1-2 and 655 IAC 1-2.1-3
Firefighter I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-4
Firefighter II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-5
Driver/Operator-Pumper	655 IAC 1-2.1-2 and 655 IAC 1-2.1-6
Driver/Operator-Aerial	655 IAC 1-2.1-2 and 655 IAC 1-2.1-6.1
Driver/Operator-Wildland Fire Apparatus	655 IAC 1-2.1-2 and 655 IAC 1-2.1-6.2
Driver/Operator-Aircraft Crash and Rescue	655 IAC 1-2.1-2 and 655 IAC 1-2.1-6.3
Driver/Operator-Mobile Water Supply	655 IAC 1-2.1-2 and 655 IAC 1-2.1-6.4
Airport Firefighter-Aircraft Crash and Rescue	655 IAC 1-2.1-2 and 655 IAC 1-2.1-7
Fire Officer-Strategy and Tactics	655 IAC 1-2.1-2 and 655 IAC 1-2.1-7.1

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Fire Officer I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-8
Fire Officer II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-9
Fire Officer III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-10
Fire Officer IV	655 IAC 1-2.1-2 and 655 IAC 1-2.1-11
Public Fire and Life Safety Educator I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-16
Public Fire and Life Safety Educator II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-17
Public Fire and Life Safety Educator III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-18
Safety Officer	655 IAC 1-2.1-2 and 655 IAC 1-2.1-22
Firefighter-Wildland Fire Suppression I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-23
Firefighter-Wildland Fire Suppression II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-23.1
Emergency Vehicle Technician I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-25 through 655 IAC 1-2.1-35
Emergency Vehicle Technician II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-36 through 655 IAC 1-2.1-60
Fire Service Engineering Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-61 through 655 IAC 1-2.1-64
Motor Sports Emergency Responder	655 IAC 1-2.1-2 and 655 IAC 1-2.1-65 through 655 IAC 1-2.1-74
Rope Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75
Rope Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-96
Rope Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-97
Rescue Technician-Surface Water Rescue	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75.1
Vehicle and Machinery Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75.2
Vehicle and Machinery Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-98
Vehicle and Machinery Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-99
Confined Space Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75.3
Confined Space Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-100
Confined Space Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-101
Structural Collapse Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75.4
Structural Collapse Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-102
Structural Collapse Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-103
Trench Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75.5
Trench Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-104
Trench Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-105
Swift Water Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-76.1
Swift Water Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-106
Swift Water Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-107
Wilderness Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-108
Wilderness Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-109
Wilderness Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-110
Land-Based Firefighter-Marine Vessel Fires	655 IAC 1-2.1-2 and 655 IAC 1-2.1-88(a)
Fire Medic I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-89
Fire Medic II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-90
Fire Medic III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-91
Fire Medic IV	655 IAC 1-2.1-2 and 655 IAC 1-2.1-92
Public Information Officer	655 IAC 1-2.1-2 and 655 IAC 1-2.1-93
Juvenile Firesetter Intervention Specialist I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-94
Juvenile Firesetter Intervention Specialist II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-95
National Incident Management System-First Responder-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-112
National Incident Management System-First Responder-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-113
National Incident Management System-First Responder-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-114

National Incident Management System-First Responder-Command

655 IAC 1-2.1-2 and 655 IAC 1-2.1-115

(2) Fire department instructors as follows:

Certification	Requirements
Instructor I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-19
Instructor II/III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-20
Instructor-Swift Water Rescue	655 IAC 1-2.1-2 and 655 IAC 1-2.1-19.1

(3) Firefighting training and education programs as follows:

Certification	Requirements
Basic Firefighter	655 IAC 1-2.1-3
Firefighter I	655 IAC 1-2.1-4(a)
Firefighter II	655 IAC 1-2.1-5(a)
Driver/Operator-Pumper	655 IAC 1-2.1-6(a)
Driver/Operator-Aerial	655 IAC 1-2.1-6.1(a)
Driver/Operator-Wildland Fire Apparatus	655 IAC 1-2.1-6.2(a)
Driver/Operator-Aircraft Crash and Rescue	655 IAC 1-2.1-6.3(a)
Driver/Operator-Mobile Water Supply	655 IAC 1-2.1-6.4(a)
Fire Officer-Strategy and Tactics	655 IAC 1-2.1-7.1(a)
Airport Firefighter-Aircraft Crash and Rescue	655 IAC 1-2.1-7(a)
Fire Officer I	655 IAC 1-2.1-8(a)
Fire Officer II	655 IAC 1-2.1-9(a)
Fire Officer III	655 IAC 1-2.1-10(a)
Fire Officer IV	655 IAC 1-2.1-11(a)
Fire Inspector I	655 IAC 1-2.1-12(a)
Fire Inspector II	655 IAC 1-2.1-13(a)
Fire Inspector III	655 IAC 1-2.1-14(a)
Fire Investigator I	655 IAC 1-2.1-15(a)
Public Fire and Life Safety Educator I	655 IAC 1-2.1-16(a)
Public Fire and Life Safety Educator II	655 IAC 1-2.1-17(a)
Public Fire and Life Safety Educator III	655 IAC 1-2.1-18(a)
Safety Officer	655 IAC 1-2.1-22(a)
Firefighter-Wildland Fire Suppression I	655 IAC 1-2.1-23(a)
Firefighter-Wildland Fire Suppression II	655 IAC 1-2.1-23.1(a)
Hazardous Materials First Responder-Awareness	655 IAC 1-2.1-24
Hazardous Materials First Responder-Operations	655 IAC 1-2.1-24.1
Hazardous Materials Technician	655 IAC 1-2.1-24.2
Hazardous Materials-Incident Command	655 IAC 1-2.1-24.3
Emergency Vehicle Technician I	655 IAC 1-2.1-25 through 655 IAC 1-2.1-35
Emergency Vehicle Technician II	655 IAC 1-2.1-36 through 655 IAC 1-2.1-60
Fire Service Engineering Technician	655 IAC 1-2.1-61 through 655 IAC 1-2.1-64
Motor Sports Emergency Responder	655 IAC 1-2.1-65 through 655 IAC 1-2.1-74
Rope Rescuer-Awareness	655 IAC 1-2.1-75(a)
Rope Rescuer-Operations	655 IAC 1-2.1-96(a)
Rope Rescuer-Technician	655 IAC 1-2.1-97(a)
Rescue Technician-Surface Water Rescue	655 IAC 1-2.1-75.1
Vehicle and Machinery Rescuer-Awareness	655 IAC 1-2.1-75.2(a)
Vehicle and Machinery Rescuer-Operations	655 IAC 1-2.1-98(a)
Vehicle and Machinery Rescuer-Technician	655 IAC 1-2.1-99(a)
Confined Space Rescuer-Awareness	655 IAC 1-2.1-75.3(a)
Confined Space Rescuer-Operations	655 IAC 1-2.1-100(a)
Confined Space Rescuer-Technician	655 IAC 1-2.1-101(a)
Structural Collapse Rescuer-Awareness	655 IAC 1-2.1-75.4(a)
Structural Collapse Rescuer-Operations	655 IAC 1-2.1-102(a)
Structural Collapse Rescuer-Technician	655 IAC 1-2.1-103(a)
Trench Rescuer-Awareness	655 IAC 1-2.1-75.5(a)

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Trench Rescuer-Operations	655 IAC 1-2.1-104(a)
Trench Rescuer-Technician	655 IAC 1-2.1-105(a)
Swift Water Rescuer-Awareness	655 IAC 1-2.1-76.1(a)
Swift Water Rescuer-Operations	655 IAC 1-2.1-106(a)
Swift Water Rescuer-Technician	655 IAC 1-2.1-107(a)
Wilderness Rescuer-Awareness	655 IAC 1-2.1-108(a)
Wilderness Rescuer-Operations	655 IAC 1-2.1-109(a)
Wilderness Rescuer-Technician	655 IAC 1-2.1-110(a)
Land-Based Firefighter-Marine Vessel Fires	655 IAC 1-2.1-88(a)
Fire Medic I	655 IAC 1-2.1-89
Fire Medic II	655 IAC 1-2.1-90
Fire Medic III	655 IAC 1-2.1-91
Fire Medic IV	655 IAC 1-2.1-92
Public Information Officer	655 IAC 1-2.1-93
Juvenile Firesetter Intervention Specialist I	655 IAC 1-2.1-94
Juvenile Firesetter Intervention Specialist II	655 IAC 1-2.1-95
National Incident Management System-First Responder- Awareness	655 IAC 1-2.1-112
National Incident Management System-First Responder- Operations	655 IAC 1-2.1-113
National Incident Management System-First Responder-Technician	655 IAC 1-2.1-114
National Incident Management System-First Responder-Command	655 IAC 1-2.1-115
Instructor I	655 IAC 1-2.1-19(a)
Instructor II/III	655 IAC 1-2.1-20(a)
Instructor-Swift Water Rescue	655 IAC 1-2.1-19.1
(4) Nonfire service person as follows:	
Certification	Requirements
Fire Inspector I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-12
Fire Inspector II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-13
Fire Inspector III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-14
Fire Investigator I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-15
Hazardous Materials First Responder-Awareness	655 IAC 1-2.1-24 and 655 IAC 1-2.1-2
Hazardous Materials First Responder-Operations	655 IAC 1-2.1-24.1 and 655 IAC 1-2.1-2
Hazardous Materials-Technician	655 IAC 1-2.1-24.2 and 655 IAC 1-2.1-2
Hazardous Materials-Incident Command	655 IAC 1-2.1-24.3 and 655 IAC 1-2.1-2
Public Fire and Life Safety Educator I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-16
Public Fire and Life Safety Educator II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-17
Public Fire and Life Safety Educator III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-18
Swift Water Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-76.1
Swift Water Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-106
Swift Water Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-107
Public Information Officer	655 IAC 1-2.1-2 and 655 IAC 1-2.1-93
Juvenile Firesetter Intervention Specialist I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-94
Juvenile Firesetter Intervention Specialist II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-95
National Incident Management System-First Responder-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-112
National Incident Management System-First Responder-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-113
National Incident Management System-First Responder-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-114

National Incident Management System-First Responder-Command

655 IAC 1-2.1-2 and 655 IAC 1-2.1-115

(Board of Firefighting Personnel Standards and Education; 655 IAC 1-1-5.1; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3384; filed Sep 24, 1999, 10:02 a.m.: 23 IR 326; readopted filed Aug 27, 2001, 10:55 a.m.: 25 IR 203; filed Nov 16, 2001, 4:37 p.m.: 25 IR 1157; errata, 26 IR 383; filed Jul 14, 2004, 10:00 a.m.: 27 IR 4010; filed Apr 13, 2005, 11:30 a.m.: 28 IR 2693; filed Sep 21, 2005, 1:30 p.m.: 29 IR 477)

SECTION 2. 655 IAC 1-2.1-111 IS ADDED TO READ AS FOLLOWS:

655 IAC 1-2.1-111 Definitions for National Incident Management System-First Responder certifications

Authority: IC 22-14-2-7
Affected: IC 36-8-10.5-7

Sec. 111. The following definitions apply to National Incident Management System-First Responder certifications:

- (1) "Agency" means the Indiana department of homeland security.
- (2) "Agency representative" means a person assigned by a primary, assisting, or cooperating federal, state, local, or tribal government agency or private entity that has been delegated authority to make decisions affecting that agency's or organization's participation in incident management activities following appropriate consultation with the leadership of that agency.
- (3) "Air operations branch" means the branch responsible for managing all aircraft operations, including both tactical and operational, at an incident.
- (4) "Area command" means an organization established to oversee the management of:
 - (A) multiple incidents that are each being handled by an ICS organization; or
 - (B) large or multiple incidents to which several incident management teams have been assigned.
 Area command has the responsibility to set overall strategy and priorities, allocate critical resources according to priorities, ensure that incidents are properly managed, and ensure that objectives are met and strategies followed.
- (5) "Assessment" means the evaluation and interpretation of measurements and other information to provide a basis for decision making.
- (6) "Assignments" means tasks given to resources to perform within a given operational period that are based on operational objectives defined in the IAP.
- (7) "Assistant" means the title for subordinates of principal command staff positions. The title indicates a level of technical capability, qualifications, and responsibility subordinate to the primary positions. Assistants may also be assigned to unit leaders.
- (8) "Base" means that location at which the primary logistics functions are coordinated and administered. The ICP may be collocated with the base. There is only one (1)

base per incident.

(9) "Branch" means the organizational level having functional or geographical responsibility for major aspects of incident operations. A branch is organizationally situated between the:

- (A) section and the division or group in the operations section; and
- (B) section and units in the logistics section.

Branches are identified by the use of Roman numerals or by functional area.

(10) "Camp" means the location where resources may be kept to support incident operations if a base is not accessible to all resources.

(11) "Chain of command" means a series of:

- (A) command;
- (B) control;
- (C) executive; or
- (D) management;

positions in hierarchical order of authority.

(12) "Chief" means the incident command system title for individuals responsible for management of functional sections, such as the following:

- (A) Operations.
- (B) Planning.
- (C) Financial/Administrative.
- (D) Logistics.

(13) "Command" means the act of:

- (A) directing;
- (B) ordering; or
- (C) controlling;

by virtue of explicit statutory, regulatory, or delegated authority.

(14) "Command staff" means the incident commander and the special staff positions of:

- (A) public information officer;
- (B) safety officer;
- (C) liaison officer; and
- (D) other positions as required;

who report directly to the incident commander. They may have an assistant or assistants, as needed.

(15) "Demobilization" means the processes and procedures used by all organizations:

- (A) federal;
- (B) state;
- (C) local; and
- (D) tribal;

for deactivating and transporting all resources that have been used to respond to or support the response to an incident to their home base.

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(16) “Deputy” means a fully qualified individual who, in the absence of a superior, can be delegated the authority to manage a functional operation or perform a specific task. In some cases, a deputy can act as relief for a superior and, therefore, must be fully qualified in the position. Deputies can be assigned to the following:

- (A) The incident commander.
- (B) General staff.
- (C) Branch directors.

(17) “Direct tactical assignment” means an assignment issued by the incident commander and received by the recipient before the arrival of the resources in the staging area.

(18) “Division” means the partition of an incident into geographical areas of operation. A division is:

- (A) established when the number of resources exceeds the manageable span of control of the operations chief; and
- (B) located within the ICS organization between the branch and resources in the operations section.

(19) “Emergency operations center” or “EOC” means the physical location at which the coordination of information and resources to support domestic incident management activities normally takes place. An EOC may be a temporary facility or located in a more central or permanently established facility within a jurisdiction. EOCs may be organized by:

- (A) major functional disciplines, for example:
 - (i) fire;
 - (ii) law enforcement; and
 - (iii) medical;services;
- (B) jurisdiction, for example:
 - (i) federal;
 - (ii) state;
 - (iii) regional;
 - (iv) county;
 - (v) city; or
 - (vi) tribal; or
- (C) some combination thereof.

(20) “Event” means a planned, nonemergency activity, for example:

- (A) parades;
- (B) concerts; or
- (C) sporting events.

(21) “Finance/administrative” means the monitoring of incident-related costs and administration of procurement contracts.

(22) “General staff” means a group of incident management personnel organized according to function and reporting to the incident commander. The general staff normally consists of the following:

- (A) The operations section chief.
- (B) The planning section chief.
- (C) The logistics section chief.
- (D) The finance/administration section chief.

(23) “Group” means an entity established to divide the incident management structure into functional areas of operation. Groups are:

- (A) composed of resources assembled to perform a special function not necessarily within a single geographic division; and
- (B) when activated, located between branches and resources in the operations section.

(24) “Incident” means an occurrence or event, natural or caused by humans, that requires an emergency response to protect life or property. The term can, for example, include the following:

- (A) Major disasters.
- (B) Emergencies.
- (C) Terrorist attacks.
- (D) Terrorist threats.
- (E) Wildland and urban fires.
- (F) Floods.
- (G) Hazardous materials spills.
- (H) Nuclear accidents.
- (I) Aircraft accidents.
- (J) Earthquakes.
- (K) Hurricanes.
- (L) Tornadoes.
- (M) Tropical storms.
- (N) War-related disasters.
- (O) Public health and medical emergencies.
- (P) Other occurrences requiring an emergency response.

(25) “Incident action plan” or “IAP” means an oral or written plan containing general objectives reflecting the overall strategy for managing an incident. The term may include the following:

- (A) Identification of operational resources and assignments.
- (B) Attachments that provide direction and important information for management of the incident during one (1) or more operational periods.

(26) “Incident commander” or “IC” means the individual responsible for all incident activities, including the following:

- (A) The development of strategies and tactics.
- (B) The ordering and release of resources.

The IC has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site.

(27) “Incident command post” or “ICP” means the field location at which the primary tactical level, on-scene incident command functions are performed. The ICP:

- (A) may be collocated with the incident base or other incident facilities; and
- (B) is normally identified by a green rotating or flashing light.

(28) “Incident command system” or “ICS” means a standardized on-scene emergency management construct specifically designed to provide for the adoption of an

integrated organizational structure that reflects the complexity and demands of single or multiple incidents without being hindered by jurisdictional boundaries. An ICS is:

- (A) the combination of:
 - (i) facilities;
 - (ii) equipment;
 - (iii) personnel;
 - (iv) procedures; and
 - (v) communications;

operating within a common organizational structure and designed to aid in the management of resources during incidents; and

- (B) used:
 - (i) for all kinds of emergencies and is applicable to small as well as large and complex incidents; and
 - (ii) by various jurisdictions and functional agencies, both public and private, to organize field level incident management operations.

(29) “Incident facilities” means the facilities near the incident area that will be used in the course of incident management activities including the following:

- (A) The incident command post.
- (B) Staging areas.
- (C) The base.
- (D) The camp.
- (E) The helibase and helispots.

(30) “Incident objectives” means statements of guidance and direction necessary for selecting an appropriate strategy or strategies and the tactical direction of resources. Incident objectives:

- (A) are based on realistic expectations of what can be accomplished when all allocated resources have been effectively deployed; and
- (B) must be achievable and measurable, yet flexible enough to allow strategic and tactical alternatives.

(31) “Liaison officer” means a member of the command staff responsible for coordinating with representatives from cooperating and assisting agencies.

(32) “Logistics” means providing resources and other services to support incident management.

(33) “Logistics section” means the section responsible for providing logistics support for the incident.

(34) “Major disaster” means any natural catastrophe, including any:

- (A) hurricane;
- (B) tornado;
- (C) storm;
- (D) high water;
- (E) wind-driven water;
- (F) tidal wave;
- (G) tsunami;
- (H) earthquake;
- (I) volcanic eruption;
- (J) landslide;
- (K) mudslide;
- (L) snowstorm; or

(M) drought;

or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under 42 U.S.C. 5122 to supplement the efforts and available resources of states, tribes, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(35) “Multi-agency coordination” means multiple agencies working together to accomplish a mutually understood common goal.

(36) “Multi-agency coordination entity” means an entity that functions within a broader multi-agency coordination system and may:

- (A) establish the priorities among incidents and associated resource allocations;
- (B) deconflict agency policies; and
- (C) provide strategic guidance and direction to support incident management activities.

(37) “Multi-agency coordination system” means a system designed to provide the architecture to support coordination for incident prioritization, critical resource allocation, communications systems integration, and information coordination. The components of a multi-agency coordination system include the following:

- (A) Facilities.
- (B) Equipment.
- (C) EOCs.
- (D) Specific multi-agency coordination entities.
- (E) Personnel.
- (F) Procedures.
- (G) Communications.

These systems assist agencies and organizations to fully integrate the subsystems of the NIMS.

(38) “Multi-jurisdictional incident” means an incident requiring action from multiple agencies that each have jurisdiction to manage certain aspects of an incident. In ICS, these incidents will be managed under unified command.

(39) “National Incident Management System” or “NIMS” means a system mandated by the federal government that provides a consistent nationwide approach for state, local, and tribal governments, the private sector, and nongovernmental organizations to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. To provide for interoperability and compatibility among state, local, and tribal capabilities, the NIMS includes the following core set of concepts, principles, and terminology:

- (A) The ICS.
- (B) Multi-agency coordination systems.
- (C) Training.
- (D) The identification and management of resources, including systems for classifying types of resources.
- (E) Qualification and certification.

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(F) The collection, tracking, and reporting of incident information and incident resources.

(40) “Operational period” means the time scheduled for executing a given set of operation actions, as specified in the IAP, and can be of various lengths, although usually not over twenty-four (24) hours.

(41) “Operations section” means the section responsible for all tactical incident operations. In ICS, the term normally includes subordinate branches, divisions, and groups.

(42) “Planning” means the collection, evaluation, and dissemination of operational information related to the incident for the preparation and documentation of the IAP and includes the maintenance of information on the following:

(A) The current and forecasted situation.

(B) The status of resources assigned to the incident.

(43) “Planning section” means the section responsible for incident planning.

(44) “Public information officer” means a member of the command staff responsible for interfacing with:

(A) the public and media; or

(B) other agencies;

with incident-related information requirements.

(45) “Resource management” means a system for identifying available resources at all jurisdictional levels to enable timely and unimpeded access to resources needed to prepare for, respond to, or recover from an incident. The term under the NIMS includes the following:

(A) Mutual aid agreements.

(B) The use of special:

(i) federal;

(ii) state;

(iii) local; and

(iv) tribal;

teams.

(C) Resource mobilization protocols.

(46) “Resources” means personnel and items of equipment, supplies, and facilities available or potentially available for assignment to incident operations and for which status is maintained. Resources:

(A) are described by kind and type; and

(B) may be used in operational support or supervisory capacities at an:

(i) incident; or

(ii) EOC.

(47) “Section” means the organizational level having responsibility for a major functional area of incident management, for example, the following:

(A) Operations.

(B) Planning.

(C) Finance/Administrative.

(D) Logistics.

The section is organizationally situated between the branch and the incident commander and is commanded by a chief.

(48) “Single command” means a type of command that is

used when:

(A) an incident occurs within a single jurisdiction; and

(B) there is no jurisdictional or functional agency overlap.

(49) “Span of control” means the number of individuals a supervisor is responsible for and is usually expressed as the ratio of supervisors to individuals. Under the NIMS, an appropriate span of control is between 1:3 and 1:7.

(50) “Staging area” means a location established where resources can be placed while awaiting a tactical assignment. The operations section manages staging areas.

(51) “Strategy” means the general direction selected to accomplish incident objectives set by the IC.

(52) “Tactics” means the science of arranging and maneuvering resources in action during an incident.

(53) “Technical specialist” means a person who:

(A) is assigned to an incident;

(B) possesses special skills; and

(C) is activated only when needed.

(54) “Terrorism” means an activity that involves an act dangerous to human life or potentially destructive of critical infrastructure or key resources and is:

(A) a violation of the criminal laws of:

(i) the United States; or

(ii) any state or other subdivision of the United States in which it occurs; and

(B) intended to:

(i) intimidate or coerce the civilian population;

(ii) influence a government; or

(iii) affect the conduct of a government;

by mass destruction, assassination, or kidnapping.

(55) “Type” means a classification of resources in the ICS that refers to capability. Type 1 is generally considered to be more capable than Type 2, 3, or 4, respectively, because of:

(A) size;

(B) power;

(C) capacity; or

(D) in the case of incident management teams, experience and qualifications.

(56) “Unified area command” means an area command that is established involving multi-jurisdictional incidents.

(57) “Unified command” or “UC” means an application of ICS used when:

(A) there is more than one (1) agency with incident jurisdiction; or

(B) incidents cross political jurisdictions.

Agencies work together through the designated members of the UC, often the senior person from the agencies or disciplines, or both, participating in the UC, to establish a common set of objectives and strategies and a single IAP.

(58) “Unit” means the organizational element having functional responsibility for a specific incident planning or logistics activity.

(59) “Unity of command” means the concept by which

each person within an organization reports to one (1) and only one (1) designated person. The purpose of unity of command is to ensure unity of effort under one (1) responsible commander for every objective.

(Board of Firefighting Personnel Standards and Education; 655 IAC 1-2.1-111; filed Sep 21, 2005, 1:30 p.m.: 29 IR 481)

SECTION 3. 655 IAC 1-2.1-112 IS ADDED TO READ AS FOLLOWS:

655 IAC 1-2.1-112 National Incident Management System-First Responder-Awareness

Authority: IC 22-14-2-7
Affected: IC 22-14-2-7

Sec. 112. (a) The minimum training standards for National Incident Management System-First Responder-Awareness certification shall be as set out in this section.

- (b) The candidate shall perform the following:**
- (1) List and explain the uses of the command staff.**
 - (2) Identify and explain the role of each of the five (5) major management functions for general staff.**
 - (3) Identify the principles of span of control.**
 - (4) Identify the ICS position titles, utilizing the organizational level, title, and support position.**
 - (5) Identify and explain the role of each of the organizational components.**
 - (6) Identify the incident facilities and explain the functions of each.**
 - (7) Identify accountability guidelines and procedures.**
 - (8) Explain and demonstrate the transfer of command.**
 - (9) Demonstrate the expansion of the basic ICS into an all purpose management tool.**
 - (10) Explain the utilization of an IAP.**
 - (11) Explain unity of command.**

(Board of Firefighting Personnel Standards and Education; 655 IAC 1-2.1-112; filed Sep 21, 2005, 1:30 p.m.: 29 IR 485)

SECTION 4. 655 IAC 1-2.1-113 IS ADDED TO READ AS FOLLOWS:

655 IAC 1-2.1-113 National Incident Management System-First Responder-Operations

Authority: IC 22-14-2-7
Affected: IC 36-8-10.5-7

Sec. 113. (a) The minimum training standards for National Incident Management System-First Responder-Operations certification shall be as set out in this section.

- (b) The candidate shall perform the following:**
- (1) Demonstrate the ability to establish command.**
 - (2) Demonstrate the ability to begin establishing incident facilities.**
 - (3) Develop an IAP for each operational level.**

- (4) Demonstrate the process of transferring command.**
- (5) Explain the unity of command and chain of command.**
- (6) Explain the span of control.**
- (7) Demonstrate the use of integrated communications using the three (3) key elements.**
- (8) Demonstrate the development of a communications plan.**
- (9) Explain and demonstrate the difference between single command and unified command.**
- (10) Explain the functions of the planning chief.**
- (11) Name and explain the functions of the planning units.**
- (12) Explain the functions of the logistics chief.**
- (13) Name and explain the functions of the logistics branch.**
- (14) Explain the functions of the finance/administrative chief.**
- (15) Name and explain the unit functions of the finance/administrative section.**
- (16) Describe the functional roles in resource management.**
- (17) Describe the types of resources often used in incidents.**
- (18) Identify how resources are procured.**
- (19) Provide examples of how resources are typed for various applications.**
- (20) Explain why resource status keeping is important to effective incident operations.**

(c) The candidate shall have been certified as a National Incident Management System-First Responder-Awareness.
(Board of Firefighting Personnel Standards and Education; 655 IAC 1-2.1-113; filed Sep 21, 2005, 1:30 p.m.: 29 IR 485)

SECTION 5. 655 IAC 1-2.1-114 IS ADDED TO READ AS FOLLOWS:

655 IAC 1-2.1-114 National Incident Management System-First Responder-Technician

Authority: IC 22-14-2-7
Affected: IC 22-14-2-7

Sec. 114. (a) The minimum training standards for National Incident Management System-First Responder-Technician certification shall be as set out in this section.

- (b) The candidate shall perform the following:**
- (1) Match responsibility statements to each ICS organizational element.**
 - (2) List the ICS positions, which may include deputies, and describe the deputies' roles and responsibilities.**
 - (3) Describe the differences between deputies and assistants.**
 - (4) Describe ICS reporting and working relationships for technical specialists and agency representatives.**
 - (5) Describe reporting relationships and information flow within the ICS organization.**
 - (6) Describe the steps in assuming and transferring**

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command at an incident.

(7) List the major elements included in the incident briefing.

(8) Develop a sample organization around a major event, including the use of all appropriate sections and organizational modules.

(9) Describe how incidents can best be managed by appropriate and early designation of command staff and delegation of authority.

(10) Describe how unified command functions on a multi-jurisdictional incident.

(11) List the minimum staff requirements within each organizational element for at least two (2) incidents of different sizes.

(12) Describe the role and use of forms in effective incident management.

(13) Identify and describe four (4) basic principles of resource management.

(14) Identify the basic steps in managing resources for an incident.

(15) Identify the contents and use of the operational planning worksheet.

(16) Identify the organizational elements at an incident that can order resources.

(17) Describe the differences between single and multipoint resource ordering and the reasons for each.

(18) Describe why and how resources are assigned to the following:

(A) Staging areas.

(B) Camps.

(C) Direct tactical assignments.

(19) Describe the purpose and importance of planning for demobilization.

(20) Describe five (5) key considerations associated with resource management and the reasons for each consideration.

(21) Describe the functions and general duties associated with each element of the air operations branch organization.

(22) Diagram a full air operations branch organization using a simulated scenario.

(23) Describe the function and use of the air operations summary worksheet.

(24) List the major steps involved in the planning process.

(25) Identify the ICS titles of personnel who have responsibilities in developing the IAP and list their duties.

(26) As part of an exercise, identify incident objectives for a simulated scenario.

(27) As part of an exercise, describe appropriate strategies and tactics to meet incident objectives for a simulated scenario.

(28) Explain the use of operational periods in the planning process and how operational periods are derived.

(29) Explain the function of the operational planning worksheet and other forms that may be used in preparing the IAP.

(30) Explain the criteria for determining when the IAP should be prepared in writing.

(31) Identify the kinds of supporting materials included in an IAP.

(32) List the major sections in a demobilization plan.

(33) As part of a group exercise, develop an IAP for a simulated scenario.

(c) The candidate shall have been certified as a National Incident Management System-First Responder-Operations. (*Board of Firefighting Personnel Standards and Education; 655 IAC 1-2.1-114; filed Sep 21, 2005, 1:30 p.m.: 29 IR 485*)

SECTION 6. 655 IAC 1-2.1-115 IS ADDED TO READ AS FOLLOWS:

655 IAC 1-2.1-115 National Incident Management System-First Responder-Command

Authority: IC 22-14-2-7

Affected: IC 36-8-10.5-7

Sec. 115. (a) The minimum training standards for National Incident Management System-First Responder-Command certification shall be as set out in this section.

(b) The candidate shall perform the following:

(1) Identify the steps built into the ICS design to compensate for previous incident management problems.

(2) Describe the primary guidelines related to command staff and general staff.

(3) Summarize the principal responsibilities for each member of the command staff and general staff.

(4) Describe the roles of deputies and assistants in incident management.

(5) Describe the purposes and responsibilities of agency representatives and reporting relationships and how they can be used effectively within the incident organization.

(6) Develop a command staff and general staff organization around a simulated scenario.

(7) Define unified command.

(8) Define the advantages of unified command and the kinds of situations that may require a unified command organization.

(9) Identify the primary features of a unified command organization.

(10) Given a simulated situation, describe roles and reporting relationships under a unified command that involves agencies from within the same jurisdiction and under multi-jurisdictional conditions.

(11) Describe areas of cost saving that may apply under a unified command structure.

(12) Given a simulated situation, describe an appropriate unified command organization.

(13) List the principal factors often found in or related to major incidents.

(14) List the principal factors often found in or related to complex incidents.

(15) List the four (4) expansion options for incident

organization and describe the conditions under which they would be applied.

(16) Through an exercise, demonstrate how to apply the various options related to major or complex incident management.

(17) Define area command.

(18) Identify differences among area command, unified command, multi-agency coordination systems, and EOCs.

(19) List the principal advantages of using area command.

(20) Describe how, when, and where area command would be established.

(21) Describe the area command organization.

(22) Identify six (6) primary functional responsibilities of area command.

(23) Given a simulated situation, develop an area command organization.

(24) Describe the kinds of incident management problems that can occur due to the lack of multi-agency coordination.

(25) Define the essential terms related to multi-agency coordination.

(26) Identify the levels at which multi-agency coordination is commonly accomplished.

(27) Identify essential differences among area command, multi-agency coordination, and EOCs.

(28) Identify the primary components of a multi-agency coordination system.

(29) List the responsibilities of a multi-agency coordination group.

(30) Identify the major guidelines for establishing and using multi-agency coordination systems and multi-agency groups.

(31) Identify principal positions within a multi-agency coordination system.

(c) The candidate shall have been certified as a National Incident Management System-First Responder-Technician. (*Board of Firefighting Personnel Standards and Education; 655 IAC 1-2.1-115; filed Sep 21, 2005, 1:30 p.m.: 29 IR 486*)

LSA Document #04-297(F)

Notice of Intent Published: December 1, 2004; 28 IR 984

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Filed with Secretary of State: September 21, 2005, 1:30 p.m.

IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #04-196(F)

DIGEST

Adds 675 IAC 22-2.2-26 to adopt NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2001 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts, together with all amendments adopted by the commission and, under IC 35-47.5-4-4.5, adds 675 IAC 26 to govern the use of a regulated explosive and establish requirements for the issuance of a license for the use of a regulated explosive. Partially effective 30 days after filing with the Secretary of State and partially effective December 1, 2005.

675 IAC 22-2.2-26

675 IAC 26

SECTION 1. 675 IAC 22-2.2-26 IS ADDED TO READ AS FOLLOWS:

675 IAC 22-2.2-26 NFPA 1126; use of pyrotechnics before a proximate audience

Authority: IC 22-11-14.5-3; IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-11-14-4; IC 22-12; IC 22-13; IC 22-14

Sec. 26. (a) That certain document, being titled the NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2001 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, is hereby incorporated by reference as if fully set out in this rule save and except those revisions made in this rule.

(b) This rule is available for reference and review at the Fire and Building Services Department, Indiana Government Center-South, 402 West Washington Street, W246, Indianapolis, Indiana 46204.

(c) NFPA 10, NFPA 101, NFPA 160, NFPA 495, NFPA 1122, NFPA 1123, NFPA 1125, and NFPA 1127 are:

(1) not adopted;

(2) not enforceable; and

(3) referenced for informational purposes only.

(d) Amend section 1.1 to delete "or outdoors" in the first sentence.

(e) Delete section 1.1.1 in its entirety.

(f) Delete section 1.1.4 in its entirety.

(g) Amend section 1.1.13 to read as follows: 1.1.13 Facilities in or at which pyrotechnics are to be used or stored shall comply with the applicable rules of the Fire Prevention and Building Safety Commission.

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(h) Amend section 1.1.15 to read as follows: 1.1.15 This standard shall not apply to the manufacture of model rocket and high power rocket motors.

(i) Amend section 1.1.17 to read as follows: This standard shall not apply to the sale and use of model rockets and model rocket motors.

(j) Amend section 1.1.18 to read as follows: This standard shall not apply to the sale and use of high power sport rockets and high power sport rocket motors.

(k) Amend section 1.2.1 to delete “outdoors” at the end of the section.

(l) Delete section 1.2.1.1 in its entirety.

(m) Delete section 1.2.1.2 in its entirety.

(n) Delete section 1.4 in its entirety.

(o) Amend section 1.5 to delete the second sentence.

(p) Amend section 1.5.1 to read as follows: Aerial Shell. A cylindrical or spherical cartridge containing pyrotechnic material, a long fuse or electric match wires, and a black powder lift charge.

(q) Amend section 1.5.6 to read as follows: Authority Having Jurisdiction. The chief of the responding fire department of the location proposed for the display of indoor pyrotechnics or the chief’s designee.

(r) Amend section 1.5.35 to read as follows: Listed. Equipment or materials included on a list published by an approved testing laboratory, inspection agency, or other organization concerned with current product evaluation that maintains periodic inspection of production of listed equipment or materials, and whose listing states that equipment or materials comply with approved nationally recognized standards and have been tested or evaluated and found suitable for use in a specified manner.

(s) Amend section 1.5.36 to read as follows: Magazine. Any building, structure, or indoor container used for the storage of explosives.

(t) Amend section 1.5.41 to read as follows: Performance. The event before, during, or after which pyrotechnics are used.

(u) Amend section 1.5.42 to read as follows: Performer. Any person in a performance who is not part of the audience or support personnel.

(v) Delete section 1.5.43 in its entirety.

(w) Amend section 1.5.45 to read as follows: Producer. An

individual who has overall responsibility for the operation and management of the performance.

(x) Amend section 1.5.46 to read as follows: Production. All the occurrences of a performance. There are two types of productions: fixed and touring.

(y) Amend 1.5.47 to read as follows: Proximate Audience. An audience closer to pyrotechnic devices than permitted by NFPA 1123 as adopted by the commission.

(z) Amend section 1.5.50 to read as follows: Pyrotechnic Operator (Special Effects Operator). The individual who has responsibility for pyrotechnic safety and who controls or initiates the use of pyrotechnic materials at a performance.

(aa) Delete chapter 2 in its entirety.

(bb) Delete chapter 3 in its entirety.

(cc) Amend section 4.1.1 to read as follows: The pyrotechnic operator shall provide to the authority having jurisdiction:

(1) evidence of insurance that has been issued to the pyrotechnic operator that provides general liability coverage of at least five hundred thousand dollars (\$500,000) for the injury or death of any number of persons in any one (1) occurrence and five hundred thousand dollars (\$500,000) for property damage in any one (1) occurrence by an intended display of indoor pyrotechnics arising from any acts of the pyrotechnic operator or the pyrotechnic operator’s agents, employees, or subcontractors; and

(2) at least twenty four (24) hours before the time of the display, written notice of the intended display and to include with the written notice a certification that the display will be made in accordance with:

(A) the rules adopted under IC 22-11-14.5-3; and

(B) any ordinance or resolution adopted under IC 22-11-14-4.

(dd) Amend section 4.2.1 to read as follows: Before any performance, the pyrotechnic operator shall submit a plan for the use of pyrotechnics to the authority having jurisdiction.

(ee) Amend section 4.2.2 to read as follows: The pyrotechnic operator shall keep the plan available at the site for safety inspectors or other designated agents of the authority having jurisdiction.

(ff) Amend section 4.2.3 to read as follows: Any addition of pyrotechnics to a performance or any significant change in the presentation of pyrotechnics shall be approved by the authority having jurisdiction prior to such addition or significant change.

(gg) Amend section 4.3.1 to read as follows: The plan for the use of pyrotechnics shall be made in writing.

(hh) Amend section 4.3.2(d) to read as follows: Name of the pyrotechnic operator.

(ii) Amend section 4.3.2(i) to read as follows: Evidence of the pyrotechnic operator's insurance carrier or financial responsibility.

(jj) Amend section 4.3.3 to read as follows: All plans shall be submitted as soon as is possible so that the authority having jurisdiction has time to be present and notify other interested parties. In no event shall such advance notice be less than 24 hours.

(kk) Amend section 4.4.1 to read as follows: A walk-through and a representative demonstration of the pyrotechnics shall be approved by the authority having jurisdiction.

(ll) Delete section 4.4.3 in its entirety.

(mm) Amend section 4.5.1 to read as follows: All pyrotechnic operators shall be at least 21 years of age.

(nn) Delete section 6.1.1.2 in its entirety.

(oo) Amend section 6.1.6, exception no. 1 to read as follows: Exception No. 1: Portions of a fire detection and life safety system may be permitted to be interrupted during the operation of temporarily installed pyrotechnic effects when the authority having jurisdiction imposes a fire watch consisting of at least two (2) firefighters certified by the Board of Firefighting Personnel Standards and Education who are capable of directing the emergency evacuation of the audience, performers, and support personnel.

(pp) Delete section 6.1.6, Exception no. 2 in its entirety.

(qq) Amend section 6.2.7 to read as follows: Before firing any pyrotechnic device, the pyrotechnic operator shall prevent unauthorized entry into the area where the special effects are to occur.

(rr) Amend section 6.3.2 to delete the exception in its entirety.

(ss) Amend section 6.3.4 to delete the exception in its entirety.

(tt) Amend section 6.4.1 to delete the exception in its entirety.

(uu) Amend section 6.5.5 to delete the exception in its entirety.

(vv) Amend section 6.7.6 to read as follows: Life safety and other systems that have been disarmed or disengaged as specified by 6.1.6 shall be restored to normal operating condition as soon as the likelihood of false alarms from the use of pyrotechnics has passed.

(ww) Delete Chapter 7 in its entirety.

(xx) Delete Appendix A in its entirety.

(yy) Delete Appendix B in its entirety.

(zz) Delete Appendix C in its entirety.

(aaa) Delete Appendix D in its entirety. (*Fire Prevention and Building Safety Commission; 675 IAC 22-2.2-26; filed Sep 21, 2005, 1:30 p.m.: 29 IR 487*)

SECTION 2. 675 IAC 26 IS ADDED TO READ AS FOLLOWS:

ARTICLE 26. REGULATED EXPLOSIVES; USE AND LICENSURE

Rule 1. Definitions

675 IAC 26-1-1 Definitions

Authority: IC 22-11-14.5-3; IC 22-13; IC 35-47.5-4-4.5

Affected: IC 35-47.5-2-13; IC 35-47.5-5-11

Sec. 1. The following definitions apply throughout this article:

(1) "Airblast" means the noise and concussion originating from a blast, usually produced by the detonation gases venting to the atmosphere.

(2) "Approved testing agency" means a person who administers the required examination for licensed regulated explosive use-blaster in accordance with 675 IAC 26-2-4.

(3) "Blast" means the controlled detonation of explosives or explosive materials to break or move, or both, rock or other materials.

(4) "Blast design" means the process of calculating blasthole diameter and layout, detonator timing, regulated explosives and blasting agent selection and consideration of geology and topography to create a blast, within accepted safety guidelines, that delivers the desired quantity and quality of broken material.

(5) "Blast initiation system" means the combination of detonators, detonation systems, and regulated explosives used to initiate a blast.

(6) "Boosting" means the use of a unit of explosives or blasting agent to perpetuate or intensify an explosive reaction.

(7) "Borehole" means a drilled hole, usually in rock, into which regulated explosives are loaded for blasting.

(8) "Flyrock" means dirt, mud, stone, fragmented rock, and other solid material propelled through the air from a blast.

(9) "Ground vibration" means a shaking of the ground in a specific wave form originating from a blast.

(10) "Licensed regulated explosive use-blaster" means an individual who:

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- (A) supervises or directs and performs the loading and firing of explosives materials;
- (B) is an employee of a licensed regulated explosive use-operator; and
- (C) is licensed by the office of the state fire marshal under this rule.

A licensed regulated explosive use-blaster may supervise or direct and perform any type of blasting.

(11) "Licensed regulated explosive use-operator" means the person who:

- (A) takes possession of a regulated explosive in this state for the purpose of detonation under the person's direction or control;
- (B) is the employer of a licensed regulated explosive use-blaster; and
- (C) holds a licensed regulated explosive use-operator permit issued by the office of the state fire marshal under this rule.

(12) "Person means" any of the following:

- (A) An individual.
- (B) A partnership.
- (C) A copartnership.
- (D) A company.
- (E) A corporation.
- (F) A limited liability company.
- (G) An association.

(13) "Proctor" means an individual who is an employee of an approved testing entity.

(14) "Regulated explosive" has the meaning set forth in IC 35-47.5-2-13.

(15) "Stemming" means the inert material, such as drill cuttings or crushed stone, used in a blasthole to confine the gaseous products of detonation.

(16) "Tamping" means the process of compressing the stemming or regulated explosive in a blasthole.

(Fire Prevention and Building Safety Commission; 675 IAC 26-1-1; filed Sep 21, 2005, 1:30 p.m.: 29 IR 489, eff Dec 1, 2005)

Rule 2. Licensure Requirements

675 IAC 26-2-1 Purpose

Authority: IC 22-11-14.5-3; IC 22-13; IC 35-47.5-4-4.5
Affected: IC 35-47.5-5-11

Sec. 1. This rule establishes the licensure requirements for the use of regulated explosives as follows:

- (1) Requirements for licensed regulated explosive use-blaster as provided in sections 2 through 4 of this rule.
- (2) Requirements for licensed regulated explosive use-operator as provided in sections 7 through 9 of this rule.
- (3) Procedures for the office of the state fire marshal to administer a program to issue licenses to individuals who comply with the requirements for licensed regulated explosive use-blaster and licensed use permits to persons who comply with the requirements for obtaining licensed use permits.

(Fire Prevention and Building Safety Commission; 675 IAC 26-

2-1; filed Sep 21, 2005, 1:30 p.m.: 29 IR 490, eff Dec 1, 2005)

675 IAC 26-2-2 Application for licensure as a licensed regulated explosive use-blaster

Authority: IC 22-11-14.5-3; IC 22-13; IC 35-47.5-4-4.5
Affected: IC 35-47.5-5-11

Sec. 2. An applicant for licensure as a licensed regulated explosive use-blaster shall submit evidence to the office of the state fire marshal on a form approved by the fire prevention and building safety commission and under penalty of perjury that the individual:

- (1) has successfully completed:
 - (A) the examination approved by the office of the state fire marshal and administered by an approved testing agency; and
 - (B) one (1) year of experience in the proper use of regulated explosives;
- (2) is at least twenty-one (21) years of age; and
- (3) has submitted the fee required in section 4 of this rule.

(Fire Prevention and Building Safety Commission; 675 IAC 26-2-2; filed Sep 21, 2005, 1:30 p.m.: 29 IR 490, eff Dec 1, 2005)

675 IAC 26-2-3 Licensure examination

Authority: IC 22-11-14.5-3; IC 22-13; IC 35-47.5-4-4.5
Affected: IC 35-47.5-5-11

Sec. 3. (a) The subjects for the licensed regulated explosive use-blaster examination are as follows:

- (1) Explosives and related products, including the following:
 - (A) High explosives.
 - (B) Blasting agents.
 - (C) Chemical and physical properties of explosive products and appropriate product selection.
- (2) Detonation materials and unique product properties, and methods of use, including the following:
 - (A) Electric detonators.
 - (B) Nonelectric detonators.
 - (C) Boosters and primers.
 - (D) Detonating cord.
 - (E) Detonating tube.
- (3) Electric detonators/special conditions, including the following:
 - (A) Required safety testing procedures.
 - (B) Approved test equipment.
 - (C) Approved blasting machines.
- (4) Blast layout and blasthole design, including the following:
 - (A) Geology.
 - (B) Topography.
 - (C) Burden and spacing calculations.
 - (D) Drill hole diameter and pattern placement.
 - (E) Blasthole detonation timing.
- (5) Control of airblast, ground vibration, and flyrock, including the following:
 - (A) Seismograph equipment usage.

- (B) Airblast monitoring and control measures.
- (C) Scale distance calculations.
- (D) Detonator timing sequences.
- (E) Flyrock reduction techniques.
- (6) Blasting records, including the following:
 - (A) Delivery, storage, and use reports.
 - (B) Blasting log.
 - (C) Seismograph log.
 - (D) Record retention requirements.
- (7) Unpredictable hazards, including the following:
 - (A) Weather conditions.
 - (B) Stray current.
 - (C) Radio frequency energy.
 - (D) Misfire conditions.
 - (E) Site security and safety.
- (8) Applicable federal and state regulations and statutes.
- (9) New product and procedure technology.

(b) The approved testing agency shall obtain the form and content of the examination from the office of the state fire marshal and shall administer the examination in accordance with the following:

- (1) A minimum of seventy percent (70%) grade is required to pass the examination.
- (2) One (1) or more proctors shall monitor each examination.
- (3) A photo identification must be provided by the applicant.
- (4) Once all admission requirements have been verified, the applicant will be allowed to take the examination.
- (5) Once the examination has begun, the entrance to the examination site will be secured and no additional applicants will be permitted to enter.
- (6) Each examination participant shall sign and date the student registration form.
- (7) Examination participants shall be seated at least five (5) feet away from each other participant.
- (8) Any examination participant observed talking to another examination participant while either has his or her answer sheet in his or her possession shall be immediately dismissed from the examination and shall receive a score of zero (0) on the examination.
- (9) Any examination participant observed copying from another participant's paper shall:
 - (A) be immediately dismissed from the examination; and
 - (B) receive a score of zero (0) on the examination.
- (10) The maximum time allowed for each examination shall be three (3) hours.
- (11) At the end of the examination period, the proctor shall ensure that:
 - (A) each student returns:
 - (i) the test booklet;
 - (ii) the completed answer sheet; and
 - (iii) the completed registration form; and
 - (B) no marks were made on the test booklet.
- (12) The proctor shall seal all test booklets and answer

sheets, and the authorized testing agency shall process the answer sheets for scoring. Each participant shall be notified in writing by the authorized testing agency of his or her examination score within ten (10) business days after the completion of the examination.

(13) If more than one (1) room is being used for the examination, a minimum of one (1) proctor per room shall be required.

(Fire Prevention and Building Safety Commission; 675 IAC 26-2-3; filed Sep 21, 2005, 1:30 p.m.: 29 IR 490, eff Dec 1, 2005)

675 IAC 26-2-4 Issuance of licensed regulated explosive use-blaster license; reciprocity; renewal of license; maintenance and sanctions

Authority: IC 22-11-14.5-3; IC 22-13; IC 35-47.5-4-4.5
 Affected: IC 22-12-7-7; IC 35-47.5-5-11

Sec. 4. (a) The office of the state fire marshal shall issue a license to an individual who:

- (1) complies with the requirements of section 2 of this rule or is certified under 312 IAC 25-9; and
- (2) pays the licensure fee of one hundred seventy-five dollars (\$175), payable to the fire and building services fund.

(b) A license expires three (3) years from the date the individual is initially licensed as a licensed regulated explosive use-blaster. Renewal of licenses shall be as set forth in subsection (h).

(c) A license shall not be assigned or transferred.

(d) A licensed regulated explosive use-blaster shall carry his or her license in his or her possession at all times when blasting is occurring.

(e) Reciprocal licensure shall be granted to an individual as follows:

- (1) The individual presents an application on a form approved by the fire prevention and building safety commission, together with an original licensure document from another state or federal agency evidencing licensure under requirements that are substantially similar to the requirements of this rule.
- (2) The individual submits a fee in the amount of one hundred seventy-five dollars (\$175).

(f) For purposes of subsection (e)(1), the licensure or certification requirements of the states of Illinois, Kentucky, and Ohio are deemed substantially similar to the requirements of this rule.

(g) Reciprocal licensure shall be effective for the duration of licensure or certification issued by the originating agency described in subsection (e)(1).

(h) For renewal of licensure, the individual shall:

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- (1) accrue a minimum of eight (8) hours per year of continuing education in one (1) or more of the subjects listed in section 3(a) of this rule. For purposes of this subsection, "per year" means each of three (3) twelve (12) calendar month periods, beginning on either the date that individual received initial licensure under section 2 of this rule or the date of licensure or certification by the originating agency described in subsection (e)(1);
- (2) submit a renewal application on a form approved by the office of the state fire marshal;
- (3) submit evidence of compliance with the continuing education requirements contained in subdivision (1); and
- (4) pay a fee in the amount of one hundred seventy-five dollars (\$175).

(i) To maintain licensure, the individual shall comply with all applicable rules of the fire prevention and building safety commission. Failure to comply may subject the holder of a licensed regulated explosive use-blaster license to sanctions contained in IC 22-12-7-7. (*Fire Prevention and Building Safety Commission; 675 IAC 26-2-4; filed Sep 21, 2005, 1:30 p.m.: 29 IR 491, eff Dec 1, 2005*)

675 IAC 26-2-5 Application for licensure as a licensed regulated explosive use-operator

Authority: IC 22-11-14.5-3; IC 22-13; IC 35-47.5-4-4.5
Affected: IC 35-47.5-5-11

Sec. 5. A person who takes possession of a regulated explosive in the state of Indiana for the purpose of detonation under the person's direction or control shall submit an application to become a licensed regulated explosive use-operator to the office of the state fire marshal on a form approved by the fire prevention and building safety commission and under penalty of perjury. (*Fire Prevention and Building Safety Commission; 675 IAC 26-2-5; filed Sep 21, 2005, 1:30 p.m.: 29 IR 492, eff Dec 1, 2005*)

675 IAC 26-2-6 Issuance of licensed regulated explosive use-operator license; maintenance; renewal

Authority: IC 22-11-14.5-3; IC 22-13; IC 35-47.5-4-4.5
Affected: IC 35-47.5-5-11

Sec. 6. (a) The office of the state fire marshal shall issue a licensed regulated explosive use-operator license to a person who has:

- (1) applied under section 5 of this rule; and
- (2) paid a fee in the amount of three hundred fifty dollars (\$350).

(b) A licensed use permit expires three (3) years from the date it was issued by the office of the state fire marshal.

(c) To renew licensure, a person shall:

- (1) submit an application on a form approved by the office of the state fire marshal;

(2) pay a fee in the amount of three hundred fifty dollars (\$350);

(3) accrue a minimum of eight (8) hours per year of continuing education in one (1) or more of the subjects listed in section 3(a) of this rule. For purposes of this subsection, "per year" means each of three (3) twelve (12) calendar month periods, beginning on the date that applicant received initial licensure under this section. For purposes of this subsection, the continuing education requirements shall be completed by an officer, partner, or manager of a person who is:

- (A) a partnership;
- (B) a copartnership;
- (C) a company;
- (D) a corporation;
- (E) a limited liability company; or
- (F) an association; and

(4) submit evidence of compliance with the continuing education requirements contained in subdivision (3).

(*Fire Prevention and Building Safety Commission; 675 IAC 26-2-6; filed Sep 21, 2005, 1:30 p.m.: 29 IR 492, eff Dec 1, 2005*)

675 IAC 26-2-7 Orders, sanctions, and appeals

Authority: IC 22-11-14.5-3; IC 22-13; IC 35-47.5-4-4.5
Affected: IC 4-21.5-3; IC 22-12-7-7; IC 35-47-1-5; IC 35-47.5-2-13; IC 35-47.5-5-11

Sec. 7. (a) The office of the state fire marshal may enforce the provisions of this rule through the issuance of administrative orders under IC 22-12-7.

(b) Orders issued under subsection (a) may include corrective actions or sanctions in accordance with IC 22-12-7-7.

(c) Any person aggrieved by an order issued by the office of the state fire marshal may petition for administrative review under IC 22-12-7 and IC 4-21.5-3. (*Fire Prevention and Building Safety Commission; 675 IAC 26-2-7; filed Sep 21, 2005, 1:30 p.m.: 29 IR 492, eff Dec 1, 2005*)

Rule 3. Use Requirements

675 IAC 26-3-1 Adoption of NFPA 495; Explosive Materials Code

Authority: IC 22-11-14.5-3; IC 22-13; IC 35-47.5-4-4.5
Affected: IC 35-47-1-5; IC 35-47.5-5-11

Sec. 1. (a) That certain document, being titled the NFPA 495, Explosive Materials Code, 2001 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, is hereby incorporated by reference as if fully set out in this rule save and except those revisions made in this rule.

(b) This rule is available for reference and review at the Fire and Building Services Department, Indiana Government Center-South, 402 West Washington Street, W246, Indianapolis, Indiana 46204.

- (c) Delete Chapter 1 in its entirety.
- (d) Delete Chapter 2 in its entirety.
- (e) Amend Section 3.3.7 to read as follows: **Blaster means a licensed regulated explosive use-blaster.**
- (f) Add Section 3.3.45.1 to read as follows: **Regulated explosive has the meaning set forth in IC 35-47.5-2-13.**
- (g) Add Section 3.3.55.1 to read as follows: **Stemming means the inert material, such as drill cuttings or crushed stone, used in a blasthole to confine the gaseous products of detonation.**
- (h) Add Section 3.3.55.2 to read as follows: **Tamping means the process of compressing the stemming or regulated explosive in a blasthole.**
- (i) Delete Section 4.1 in its entirety.
- (j) Amend Section 4.2.1 to read as follows: **No person shall take possession of explosive materials for the purpose of detonation under the person's direction or control without first obtaining a licensed regulated explosive use-operator license.**
- (k) Add Section 4.2.1.1 to read as follows: **The loading and firing of explosive materials shall be conducted only under the control of a licensed regulated explosive use-blaster.**
- (l) Amend Section 4.2.3 to read as follows: **Every licensed regulated explosive use-operator and every licensed regulated explosive use-blaster shall be responsible for the results and consequences of any loading or firing of explosive materials. All loading and firing shall be supervised and performed by a licensed regulated explosive use-blaster.**
- (m) Delete Section 4.3 in its entirety.
- (n) Delete Section 4.4 in its entirety.
- (o) Delete Section 4.5 in its entirety.
- (p) Delete Section 4.6 in its entirety.
- (q) Delete Section 4.7 in its entirety.
- (r) Amend Section 4.8.1 to read as follows: **A licensed regulated explosive use-operator shall keep a record of all transactions or operations involving explosive materials.**
- (s) Delete Section 4.8.2 in its entirety.
- (t) Amend Section 4.8.3 to read as follows: **A licensed regulated explosive use-operator shall keep a daily record of all explosive materials received and fired or otherwise**

disposed of by the licensed regulated explosive use-operator.

- (u) Add Section 4.8.3.1 to read as follows: **A record of each blast shall be kept. All such records shall contain at least the following data:**
 - (1) The name of the licensed regulated explosive use-operator.
 - (2) The exact location of the blast, with date and time of detonation.
 - (3) The name, signature, and license number of the licensed regulated explosive use-blaster on site at the blast.
 - (4) The type of material blasted.
 - (5) The number of holes, burden, and spacing.
 - (6) The diameter and depth of holes.
 - (7) The types of explosives used.
 - (8) The total amount of explosives used, in pounds.
 - (9) The maximum weight of explosives per delay period of eight (8) milliseconds or greater.
 - (10) The method of firing and type of circuit.
 - (11) The direction, distance in feet, and identification of the nearest Class 1 or Class 2 structure that is neither owned nor operated by the entity in subdivision (1) or (3).
 - (12) The weather conditions.
 - (13) The type and height or length of stemming.
 - (14) A statement as to whether mats or other protections against flyrock were used.
 - (15) The type of detonators used and delay periods used.
 - (16) Seismograph readings, where required, shall accurately indicate the exact location of the seismograph and the distance from the seismograph to the blast. The seismograph shall create a visually inspectable Cartesian presentation of all three (3) mutually perpendicular vibration traces and one (1) acoustic channel versus time, and having both vertical and horizontal scaling factors.
 - (17) Seismograph records, where used, shall include the following:
 - (A) The name of the person analyzing the seismographic record.
 - (B) The seismograph reading.
 - (18) The maximum number of charges within any period of eight (8) milliseconds.
 - (19) A sketch of the blast pattern, including the number of holes, burden and spacing delay pattern, and a hole profile.
- (v) Amend Section 4.8.4 to read as follows: **A licensed regulated explosive use-operator shall notify the office of the state fire marshal of any change in address.**
- (w) Amend Section 4.8.5 to read as follows: **A licensed regulated explosive use-operator shall notify the office of the state fire marshal of the loss, theft, or unlawful removal of explosive materials within twenty-four (24) hours.**
- (x) Delete Chapter 5 in its entirety.

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- (y) Delete Chapter 6 in its entirety.
- (z) Delete Chapter 7 in its entirety.
- (aa) Delete Chapter 8 in its entirety.
- (bb) Amend Section 9.1.1 to read as follows: All licensed regulated explosive use-blasters and licensed regulated explosive use-operators shall comply with all applicable federal and state laws with respect to the sale, possession, storage, and use of explosive materials.
- (cc) Delete Section 9.1.2 in its entirety.
- (dd) Amend Section 9.1.3 to read as follows: Explosive materials shall be used only by individuals who are under the direct, on-site supervision of a licensed regulated explosive use-blaster.
- (ee) Amend Section 9.1.3.1 to read as follows: Loading and firing shall be performed or supervised directly by a licensed regulated explosive use-blaster who is present at the blast site.
- (ff) Amend Section 9.1.3.2 to read as follows: Trainees, helpers, and other individuals who are not licensed regulated explosive use-blasters shall work only under the direct, on-site supervision of a licensed regulated explosive use-blaster.
- (gg) Amend Section 9.1.4.3 to read as follows: No individual within fifty (50) feet of any location where explosives are being handled or used shall carry any matches, open light, other fire or flame, or firearms (as defined in IC 35-47-1-5).
- (hh) Amend Section 9.1.5 to substitute “individual” for “person”.
- (ii) Delete Section 9.1.8 in its entirety.
- (jj) Delete Section 9.1.9 in its entirety.
- (kk) Delete Section 9.1.10 in its entirety.
- (ll) Delete Section 9.1.11 in its entirety.
- (mm) Amend Section 9.1.12 to read as follows: Where blasting is done in a congested area or in close proximity to a structure, railway, highway, or any other installation that could be affected, special precautions shall be taken.
- (nn) Amend Section 9.1.13 to read as follows: Individuals authorized to prepare explosive charges and licensed blasters shall use every reasonable precaution to ensure the safety of the general public and workers.
- (oo) Amend Section 9.1.15 to read as follows: Where blasting is conducted in the vicinity of utility lines or rights-of-way, the licensed regulated explosive use-operator shall notify the appropriate representatives of the utilities at least twenty-four (24) hours in advance of blasting, specifying the location and the intended time of such blasting. Verbal notice shall be confirmed with written notice.
- (pp) Amend Section 9.1.15 to delete the exception.
- (qq) Amend Section 9.1.16 to delete items (1) and (2).
- (rr) Amend the heading for Section 9.2 to read as follows: Blasthole loading.
- (ss) Amend Section 9.3.5 to read as follows: All electric blasting circuits and other initiating systems whose continuity can be tested shall be tested with a blasting galvanometer or other blast continuity test instrument as recommended by the product manufacturer. All electrically initiated blasts shall be made by using blasting machines suitable for the circuitry being fired.
- (tt) Amend Section 9.5.4 to read as follows: Where there are misfires using cap and fuse, all personnel shall stay clear of the blast site for at least thirty (30) minutes.
- (uu) Amend Section 9.5.5 to read as follows: Where there are misfires using other nonelectric detonators, that is, other than cap and fuse, all personnel shall stay clear of the blast site for at least fifteen (15) minutes, and, where there are misfires using electric detonators, all personnel shall stay clear of the blast site for at least thirty (30) minutes.
- (vv) Amend Section 9.5.6 to read as follows: Misfires shall be the responsibility of the licensed regulated explosive use-blaster in charge of the blasting operation.
- (ww) Amend Section 9.6.3 to read as follows: All explosive materials that are obviously deteriorated or damaged shall not be used and shall be destroyed in accordance with the manufacturer’s guidelines or instructions.
- (xx) Amend Section 10.1.1 to read as follows: At all blasting operations, the maximum ground vibration at any dwelling, public building, school, church, or commercial or institutional building adjacent to the blasting site shall not exceed the limitations specified in Table 10.1.1 and Table 10.1.2(b) unless the license use permittee has a written waiver from the property owner.
- (yy) Amend Table 10.1.1 to read as follows:
- | Distance from Blasting Site | | Maximum Allowable Peak Particle Velocity | |
|-----------------------------|---------------|--|-------|
| | | mm/s | in./s |
| m | ft | 25.4 | 1.00 |
| all distances | all distances | 25.4 | 1.00 |
- (zz) Amend Section 10.1.2 to read as follows: In lieu of Table 10.1.1, a licensed regulated explosive use-operator shall have the option to use the graph shown in Figure

10.1.2(b) to limit peak particle velocity based upon the frequency of the blast vibration.

(aaa) Delete Figure 10.1.2(a) in its entirety.

(bbb) Amend Section 10.1.3 to read as follows: Unless a licensed regulated explosive use-operator uses a seismograph to monitor a blast to ensure compliance with Table 10.1.1 or Figure 10.1.2(a), the licensed regulated explosive use-operator shall comply with the scaled distance equations shown in Table 10.1.3.

(ccc) Amend Table 10.1.3 to read as follows:

Table 10.1.3 Scaled Distance Equations

Distance from Blasting Site	Scaled Distance* Equation
All distances	$W(lb) = [D(ft)/60]^2$ $\{W(kg) = [D(m)/27.15]^2\}$

W equals the maximum weight of regulated explosives in pounds (or kilograms) that can be detonated per delay interval of 8 milliseconds or longer.

D equals the distance in feet (or meters) from the blast to the nearest dwelling, public building, school, church, or commercial or institutional building not owned, leased, or contracted by the licensed regulated explosive use-operator, or on property for which the owner has not provided a written waiver to the licensed regulated explosive use-operator.

*To convert English units of scaled distances (ft/lb²) to metric units (m/kg²), divide by a factor of 2.21.

(ddd) Amend Section 10.1.4 to read as follows: Where the licensed regulated explosive use-operator is using scaled distance equations, the office of the state fire marshal may require seismographic monitoring of shots.

(eee) Amend Section 10.2.1 to read as follows: Airblast at the locations of any dwelling, public building, school, church, or commercial or institutional building not owned, leased, or contracted by the licensed regulated explosive use-operator, or on property for which the owner has not provided a written waiver to the licensed regulated explosive use-operator, shall not exceed the maximum limits specified in Table 10.2.1.

(fff) Amend Table 10.2.1 to read as follows:

Table 10.2.1 Air Blast Limits

Lower Frequency of Measuring System [Hz (± 3 dcb)]	Measurement Level (dcb)
2 Hz or lower flat response	133 peak
6 Hz or lower flat response	129 peak

(ggg) Amend Section 10.3.2 to read as follows: Flyrock shall not be propelled from the blast site onto property not contracted by the licensed regulated explosive use-operator or onto property for which the owner has not provided a written waiver to the licensed regulated explosive use-operator.

(hhh) Delete Chapter 11 in its entirety.

(iii) Delete Chapter 12 in its entirety. (Fire Prevention and Building Safety Commission; 675 IAC 26-3-1; filed Sep 21, 2005, 1:30 p.m.; 29 IR 492, eff Dec 1, 2005)

SECTION 3. SECTION 2 of this document takes effect December 1, 2005.

LSA Document #04-196(F)

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IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: NFPA 495, Explosive Materials Code, 2001 Edition; NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2001 Edition

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #04-216(F)

DIGEST

Amends 675 IAC 13-2.4, the 2003 Indiana Building Code, to make substantive and clarifying changes, including amendments for the requirement of sprinklers in places of assembly. Effective 30 days after filing with the Secretary of State.

- 675 IAC 13-2.4-10
- 675 IAC 13-2.4-19
- 675 IAC 13-2.4-20
- 675 IAC 13-2.4-22
- 675 IAC 13-2.4-24.3
- 675 IAC 13-2.4-32.5
- 675 IAC 13-2.4-40.5
- 675 IAC 13-2.4-40.6
- 675 IAC 13-2.4-41.5
- 675 IAC 13-2.4-42.7
- 675 IAC 13-2.4-43.2
- 675 IAC 13-2.4-43.6
- 675 IAC 13-2.4-47
- 675 IAC 13-2.4-55
- 675 IAC 13-2.4-55.5
- 675 IAC 13-2.4-56.5
- 675 IAC 13-2.4-105.6
- 675 IAC 13-2.4-107.3
- 675 IAC 13-2.4-107.5
- 675 IAC 13-2.4-107.6
- 675 IAC 13-2.4-118
- 675 IAC 13-2.4-118.4
- 675 IAC 13-2.4-121.5
- 675 IAC 13-2.4-122
- 675 IAC 13-2.4-122.5
- 675 IAC 13-2.4-132
- 675 IAC 13-2.4-132.3
- 675 IAC 13-2.4-132.5
- 675 IAC 13-2.4-133.5
- 675 IAC 13-2.4-134.5
- 675 IAC 13-2.4-143
- 675 IAC 13-2.4-180.5
- 675 IAC 13-2.4-201.5
- 675 IAC 13-2.4-201.7
- 675 IAC 13-2.4-210.3
- 675 IAC 13-2.4-210.5
- 675 IAC 13-2.4-213.3
- 675 IAC 13-2.4-213.5
- 675 IAC 13-2.4-213.7
- 675 IAC 13-2.4-214.2
- 675 IAC 13-2.4-214.4
- 675 IAC 13-2.4-214.6
- 675 IAC 13-2.4-214.7
- 675 IAC 13-2.4-228.5

SECTION 1. 675 IAC 13-2.4-10 IS AMENDED TO READ AS FOLLOWS:

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675 IAC 13-2.4-10 Section 307.2; definitions

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 10. In SECTION 307.2, make the following changes:

(1) Delete, in SECTION 307.2 Definitions, the last paragraph in the definition of HIGHLY TOXIC and substitute to read as follows: Mixtures of these materials with ordinary materials, such as water, might not warrant classification as highly toxic.

(2) In the definition of PYROPHORIC, change the temperature from "13° F (11° C)" to "130° F (54° C)".

(3) Delete, in SECTION 307.2 Definitions, in the definition of UNSTABLE (REACTIVE) MATERIAL Class 1, the word "which" after the word "can".

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-10; filed Apr 21, 2003, 8:30 a.m.: 26 IR 2878; filed Sep 12, 2005, 9:45 a.m.: 29 IR 496)

SECTION 2. 675 IAC 13-2.4-19 IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-2.4-19 Section 310.1; residential Group R

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 19. Change SECTION 310.1, Residential group R, as follows:

(1) Add to the end of the Group R-3 description a sentence Change "R-2" to read as follows: Residential occupancies containing dwelling units or a congregate residence where the occupants are primarily permanent in nature, including:

Apartments

Congregate residences (each accommodating more than 10 persons)

(2) Change "R-3" to read as follows: Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, I, adult, and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours, or bed and breakfast establishments and congregate residences (each accommodating 10 persons or less). One and two family dwellings and townhouses not more than three (3) stories in height are regulated by the Indiana Residential Code (675 IAC 14) (See Section 101.2).

(3) Change the last paragraph of the R-4 description to read as follows: Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except for the height and area limitations provided in Section 503 or shall comply with the Indiana Residential Code (675 IAC 14) as a Class 1 structure.

(4) Add to the end of the first paragraph after "24 hours" the words "or bed and breakfast establishment".

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-19; filed Apr 21, 2003, 8:30 a.m.: 26 IR 2879; filed Sep 12, 2005, 9:45 a.m.: 29 IR 496)

SECTION 3. 675 IAC 13-2.4-20 IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-2.4-20 Section R310.2; definitions

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 20. Add the definition of BED AND BREAKFAST ESTABLISHMENT following definitions to Section 310.2 R310.2 Definitions: before BOARDING HOUSE

(1) BED AND BREAKFAST ESTABLISHMENT to read as follows: BED AND BREAKFAST ESTABLISHMENT. An operator occupied residence that:

1. Provides sleeping accommodations to the public for a fee;

2. Has no more than fourteen (14) guest rooms;

3. Provides breakfast to its guests as part of the fee; and

4. Provides sleeping accommodations for no more than thirty (30) consecutive days to a particular guest. The term does not include hotels, motels, boarding houses, or food service establishments. The operator may reside within the establishment or on contiguous property.

(2) CONGREGATE RESIDENCE to read as follows: CONGREGATE RESIDENCE. Is any building or portion thereof that contains facilities for living, sleeping, and sanitation, as required by this code. A congregated residence may be a shelter, convent, monastery, fraternity house, or sorority house, but does not include jails, hospitals, nursing homes, or similar institutional use groups, hotels (including motels), or boarding houses (transient).

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-20; filed Apr 21, 2003, 8:30 a.m.: 26 IR 2879; filed Sep 12, 2005, 9:45 a.m.: 29 IR 496)

SECTION 4. 675 IAC 13-2.4-22 IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-2.4-22 Section 311.3; low-hazard storage

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 22. Make the following changes to SECTION 311.3:

(1) Add, to the beginning of the list of occupancies before "Asbestos" in Section 311.3, Low-hazard storage, Group S-2, "Aircraft Hangars".

(2) In the last sentence, delete "only" and insert "not".

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-22; filed Apr 21, 2003, 8:30 a.m.: 26 IR 2879; filed Sep 12, 2005, 9:45 a.m.: 29 IR 496)

SECTION 5. 675 IAC 13-2.4-24.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-24.3 Section 402.6; types of construction

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 24.3. Make the following changes in the first sentence of SECTION 402.6:

(1) Add a comma after “buildings”.

(2) Delete the comma after “construction”.

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-24.3; filed Sep 12, 2005, 9:45 a.m.: 29 IR 496)

SECTION 6. 675 IAC 13-2.4-32.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-32.5 Section 412.2.6; fire suppression

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 32.5. SECTION 412.2.6 is amended as follows: Renummer the current exception as Exception 1 and add Exception 2 as follows:

2. A fire suppression system shall not be required in aircraft hangars with a fire area of less than 12,000 square feet (1,115 m²) where there is no fueling of aircraft within the hangar.

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-32.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 497)

SECTION 7. 675 IAC 13-2.4-40.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-40.5 Section 506.1; general

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 40.5. In SECTION 506.1, delete “(percent)” from the definition of “I_r”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-40.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 497)*

SECTION 8. 675 IAC 13-2.4-40.6 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-40.6 Section 506.2; frontage increase

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 40.6. In SECTION 506.2, delete “(percent)” from the definition of “I_r”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-40.6; filed Sep 12, 2005, 9:45 a.m.: 29 IR 497)*

SECTION 9. 675 IAC 13-2.4-41.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-41.5 Section 506.3; automatic sprinkler system increase

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 41.5. Make the following changes to SECTION 506.3:

(1) Delete “(I_s = 200 percent)” and insert “(I_s = 200)”.

(2) Delete “(I_s = 300 percent)” and insert “(I_s = 300)”.

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-41.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 497)

SECTION 10. 675 IAC 13-2.4-42.7 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-42.7 Section 507.7; Group E buildings

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 42.7. Delete SECTION 507.7 without substitution. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-42.7; filed Sep 12, 2005, 9:45 a.m.: 29 IR 497)*

SECTION 11. 675 IAC 13-2.4-43.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-43.2 Table 601; fire resistance rating for building elements (hours)

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 43.2. In the last line of the first column, BUILDING ELEMENT, under TYPE IIB, delete the reference to footnote “c”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-43.2; filed Sep 12, 2005, 9:45 a.m.: 29 IR 497)*

SECTION 12. 675 IAC 13-2.4-43.6 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-43.6 Section 702.1; definitions

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 43.6. Add the definition of DWELLING UNIT to read as follows: For the purpose of this chapter, DWELLING UNIT means “a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-43.6; filed Sep 12, 2005, 9:45 a.m.: 29 IR 497)*

SECTION 13. 675 IAC 13-2.4-47 IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-2.4-47 Table 719.1(2); rated fire-resistive periods for various walls and partitions

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 47. (a) Change TABLE 719.1(2) RATED FIRE-RESISTIVE PERIODS FOR VARIOUS WALLS AND PARTITIONS as follows: (Portions of the Table and footnotes not shown do not change)

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TABLE 719.1(2)

RATED FIRE RESISTANCE PERIODS FOR VARIOUS WALLS AND PARTITIONS ^{a, o, p}

MATERIAL	ITEM NUMBER	CONSTRUCTION	MINIMUM FINISHED THICKNESS FACE-TO-FACE (inches)			
			4 Hr.	3 Hr.	2 Hr.	1 Hr.
	15-1.6 ^{lm}	2" by 6" fire-retardant-treated wood studs 16" on center, interior face has two layers of 5/8" Type X gypsum with the base layer placed vertically and attached with 6d box nails 12" on center. The face layer is placed horizontally and attached with 8d box nails 8" on center at joints and 12" on center elsewhere. The exterior face has a base layer of 5/8" Type X gypsum sheathing placed vertically with 6d box nails 8" on center at joints and 12" on center elsewhere. An approved building paper is next applied, followed by self-furred exterior lath attached with 2 1/2", No. 12 gage galvanized roofing nails with a 3/8" diameter head and spaced 6" on center along each stud. Cement plaster consisting of a 1/2" brown coat is then applied. The scratch coat is mixed in the proportion of 1:3 by weight, cement to sand with 10 pounds of hydrated lime and 3 pounds of approved additives or admixtures per sack of cement. The brown coat is mixed in the proportion of 1:4 by weight, cement to sand with the same amounts of hydrated lime and approved additives or admixtures used in the scratch coat.	—	—	8 1/4	—
15. Exterior or interior walls	15-1.7 ^{lm}	2" by 6" wood studs 16" on center. The exterior face has a layer of 5/8" Type X gypsum sheathing placed vertically with 6d box nails 8" on center at joints and 12" on center elsewhere. An approved building paper is next applied, followed by 1" by No. 18 gage self-furred exterior lath attached with 8d by 2 1/2" long galvanized roofing nails spaced 6" on center along each stud. Cement plaster consisting of a 1/2" scratch coat, a bonding agent, and a 1/2" brown coat and a finish coat is then applied. The scratch coat is mixed in the proportion of 1:3 by weight, cement to sand with 10 pounds of hydrated lime and 3 pounds of approved additives or admixtures per sack of cement. The brown coat is mixed in the proportion of 1:4 by weight, cement to sand with the same amounts of hydrated lime and approved additives or admixtures used in the scratch coat. The interior is covered with 3/8" gypsum lath with 1" hexagonal mesh of 0.035 inch (No. 20 B.W. gage) woven wire lath furred out 5/16" and 1" perlite or vermiculite gypsum plaster. Lath nailed with 1 1/8" by No. 13 gage by 19/64" head plasterboard blued nails spaced 5" on center. Mesh attached by 1 3/4" by No. 12 gage by 3/8" head nails with 3/8" furrings, spaced 8" on center. The plaster mix shall not exceed 100 pounds of gypsum to 2 1/2 cubic feet of aggregate.	—	—	8 3/8	—
	15-1.8 ^{lm}	2" by 6" wood studs 15" 16" on center. The exterior face has a layer of 5/8" Type X gypsum sheathing placed vertically with 6d box nails 8" on center at joints and 12" on center elsewhere. An approved building paper is next applied, followed by 1 1/2" by No. 17 gage self-furred exterior lath attached with 8d by 2 1/2" long galvanized roofing nails spaced 6" on center along each stud. Cement plaster consisting of a 1/2" scratch coat, and 1/2" brown coat is then applied. The plaster may be placed by machine. The scratch coat is mixed in the proportion of 1:4 by weight, plastic cement to sand. The brown coat is mixed in the proportion of 1:5 by weight, plastic cement to sand. The interior is covered with 3/8" gypsum lath with 1" hexagonal mesh of No. 20 gage woven wire lath furred out 5/16" and 1" perlite or vermiculite gypsum plaster. Lath nailed with 1 1/8" by No. 13 gage by 19/64" and head plasterboard blued nails spaced 5" on center. Mesh attached by 1 3/4" by No. 12 gage by 3/8" head nails with 3/8" furrings, spaced 8" on center. The plaster mix shall not exceed 100 pounds of gypsum to 2 1/2 cubic feet of aggregate.	—	—	8 3/8	—

15-1.12 ^q	2" by 6" wood studs at 16" centers with double top plates, single bottom plate; interior and exterior sides covered with 5/8" Type X gypsum wallboard, 4 feet wide, applied horizontally or vertically with vertical joints over studs, and fastened with 2 1/4" Type S drywall screws, spaced 12" on center. Cavity filled with 4 1/2" mineral wool insulation.	—	—	—	6 3/4
15-1.13 ^q	2" by 5" 6" wood studs at 16" centers with double top plates, single bottom plate; interior and exterior sides covered with 5/8" Type X gypsum wallboard, 4 feet wide, applied horizontally or vertically with vertical joints over studs, and fastened with 2 1/4" Type S drywall screws, spaced 7" on center.	—	—	—	6 3/4
15-1.14 ^q	2" by 4" wood studs at 16" centers with double top plates, single bottom plate; interior and exterior sides covered with 5/8" Type X gypsum wallboard and sheathing, respectively, 4 feet wide, applied horizontally or vertically with vertical joints over studs, and fastened with 2 1/4" Type S drywall screws, spaced 12" on center. Cavity to be filled with 3 1/2" mineral wool insulation.	—	—	—	4 3/4

(b) In item 12-1.3 and item 12-1.4, delete the reference to footnote "f".

(c) In footnote "f", delete "item 6" and insert "item 3".

(d) Add footnote ^q to read as follows: ^qThe design stress of studs shall be equal to a maximum of 100 percent of the allowable F_c, calculated in accordance with Section 2306. (*Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-47; filed Apr 21, 2003, 8:30 a.m.: 26 IR 2882; filed Sep 12, 2005, 9:45 a.m.: 29 IR 497*)

SECTION 14. 675 IAC 13-2.4-55 IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-2.4-55 Section 902; definitions

Authority: IC 22-13-2-2; IC 22-13-2-13
 Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 55. Change SECTION 902, Definitions, as follows:

(1) Add the definition of DWELLING UNIT after DRY-CHEMICAL EXTINGUISHING AGENT to read as follows: DWELLING UNIT. For the purpose of this chapter, Dwelling Unit means "a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(2) Add the definition of Labeled after Listed to read as follows: LABELED. Equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization engaged in product evaluation, that maintains periodic inspection of production of labeled equipment or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

(3) Delete the definition of RECORD DRAWINGS. (*Fire Prevention and Building Safety Commission; 675 IAC 13-*

2.4-55; filed Apr 21, 2003, 8:30 a.m.: 26 IR 2884; filed Sep 12, 2005, 9:45 a.m.: 29 IR 499)

SECTION 15. 675 IAC 13-2.4-55.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-55.5 Section 903.2.1.3; Group A-3

Authority: IC 22-13-2-2; IC 22-13-2-13
 Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 55.5. Renumber the exception to SECTION 903.2.1.3 as Exception 1 and add Exception 2 to read as follows: 2. Fire areas not exceeding 7,000 square feet (650.3 m²) used primarily for worship with or without fixed seating and not used for exhibition or display, and the fire area is not located on a floor level other than that of exit discharge. (*Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-55.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 499*)

SECTION 16. 675 IAC 13-2.4-56.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-56.5 Section 903.3.1.1; NFPA 13 sprinkler system

Authority: IC 22-13-2-2; IC 22-13-2-13
 Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 56.5. Change the text of SECTION 903.3.1.1 to read as follows: Where the provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, sprinklers shall be installed throughout in accordance with NFPA 13 except as provided in Section 903.3.1.1.1. (*Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-55.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 499*)

SECTION 17. 675 IAC 13-2.4-105.6 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-105.6 Section 1003.3.3; stairways

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 105.6. Add an exception to SECTION 1003.3.3 to read as follows: EXCEPTION: Stairs and ladders used to access areas used exclusively for mechanical equipment are exempt from this section. (*Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-105.6; filed Sep 12, 2005, 9:45 a.m.: 29 IR 500*)

SECTION 18. 675 IAC 13-2.4-107.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-107.3 Section 1004.3.2.1; construction

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 107.3. Delete Exception 2 to SECTION 1004.3.2.1 without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-107.3; filed Sep 12, 2005, 9:45 a.m.: 29 IR 500*)

SECTION 19. 675 IAC 13-2.4-107.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-107.5 Section 1005.3.2; vertical exit enclosures

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 107.5. Add an Exception 9 to SECTION 1005.3.2 to read as follows: 9. In other than occupancy Groups H and I, interior egress stairways serving only the first and second stories of a building equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 are not required to be enclosed, provided at least two means of egress are provided from both floors served by the unenclosed stairways. Such interconnecting stories shall not be open to other stories. (*Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-107.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 500*)

SECTION 20. 675 IAC 13-2.4-107.6 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-107.6 Section 1005.3.5.1; separation

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 107.6. In the third sentence of the first paragraph of SECTION 1005.3.5.1, delete “with no unprotected openings” without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-107.6; filed Sep 12, 2005, 9:45 a.m.: 29 IR 500*)

SECTION 21. 675 IAC 13-2.4-118 IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-2.4-118 Table 1505.1; minimum roof covering classification for types of construction

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 118. Make the following changes to TABLE 1505.1: (1) Delete in TABLE 1505.1 MINIMUM ROOF COVERING CLASSIFICATION FOR TYPES OF CONSTRUCTION, Footnote a.

(2) Change the reference in footnote c to 1505.7.

(*Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-118; filed Apr 21, 2003, 8:30 a.m.: 26 IR 2937; filed Sep 12, 2005, 9:45 a.m.: 29 IR 500*)

SECTION 22. 675 IAC 13-2.4-118.4 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-118.4 Table 1507.2; asphalt shingle application

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 118.4. Make the following changes to TABLE 1507.2: (1) In item 2 of the exception, delete “1609.5” and insert “1604.5”.

(2) In item 2 of the exception, add “I_w” after “Importance Factor”.

(*Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-118.4; filed Sep 12, 2005, 9:45 a.m.: 29 IR 500*)

SECTION 23. 675 IAC 13-2.4-121.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-121.5 Section 1605.4; special seismic load combinations

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 121.5. Make the following changes to SECTION 1605.4:

(1) In the fifth line, delete “due to” and insert “calculated using”.

(2) In the seventh line, add “those calculated using” before “Formula 16-20”.

(*Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-121.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 500*)

SECTION 24. 675 IAC 13-2.4-122 IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-2.4-122 Table 1607.1; minimum uniformly distributed live loads and minimum concentrated live loads

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 122. Change Make the following changes in TABLE

1607.1 MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS AND MINIMUM CONCENTRATED LIVE LOADS:

(1) Change footnote “g” to read as follows: g. Where snow loads occur that are in excess of the design conditions, the structure shall be designed to support the loads due to the ~~increased loads~~ **increase** caused by drift buildup or a greater snow design determined by the registered design professional or the owner if a registered design professional is not required by the General Administrative Rules (675 IAC 12-6) or the rules for Industrialized Building Systems (675 IAC 15). See Section 1608. For special-purpose roofs, see Section 1607.11.2.2.

(2) In the column OCCUPANCY OR USE, delete “and canopies” from item 24.

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-122; filed Apr 21, 2003, 8:30 a.m.: 26 IR 2937; filed Sep 12, 2005, 9:45 a.m.: 29 IR 500)

SECTION 25. 675 IAC 13-2.4-122.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-122.5 Section 1607.4; concentrated loads

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 122.5. In the first sentence of SECTION 1607.4, delete “1607.2” and insert “1607.3”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-122.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 501)*

SECTION 26. 675 IAC 13-2.4-132 IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-2.4-132 Section 1616.2.3; seismic use Group III

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 132. Change SECTION 1616.2.3 Seismic Use Group III as follows:

(1) Delete the words “, or as designated by the building official”.

(2) Add an exception to the end of SECTION ~~1616.3~~ **1616.2.3** to read as follows: EXCEPTION: The seismic design category need not exceed Seismic Design Category C for buildings and structures in Seismic Use Groups I and II and Seismic Design Category D for Class 1 buildings and structures in Seismic Use Group III.

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-132; filed Apr 21, 2003, 8:30 a.m.: 26 IR 2938; filed Sep 12, 2005, 9:45 a.m.: 29 IR 501)

SECTION 27. 675 IAC 13-2.4-132.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-132.3 Section 1617.4.1.1; calculation of seismic response coefficient

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 132.3. In SECTION 1617.4.1.1, at the definition for “S₁” (Equation 16-38), add “mapped” before “maximum”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-132.3; filed Sep 12, 2005, 9:45 a.m.: 29 IR 501)*

SECTION 28. 675 IAC 13-2.4-132.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-132.5 Table 1617.6; design coefficients and factors for basic seismic-force resisting systems

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 132.5. Make the following changes to TABLE 1617.6:

(1) At the entry for Basic seismic-force-resisting system, section 1 Bearing Wall Systems, line B, in column F^c, delete “160” and insert “100”.

(2) At the entry for Basic seismic-force-resisting system, section 2 Building frame systems, line H, in column A or B, delete “NP” and insert “NL”.

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-132.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 501)

SECTION 29. 675 IAC 13-2.4-133.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-133.5 Section 1621.1; component importance factor

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 133.5. In SECTION 1621.1.6, delete “exempted amounts” from the second listing for I_p, and insert “maximum allowable quantities”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-133.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 501)*

SECTION 30. 675 IAC 13-2.4-134.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-134.5 Section 1621.2.1; architectural component forces and displacements

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 134.5. In the seventh line of the exception, delete “swing” and insert “of swinging,” and delete the “,” after “vertical”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-134.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 501)*

SECTION 31. 675 IAC 13-2.4-143 IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-2.4-143 Section 1621.3.12.1; mechanical equipment

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

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Sec. 143. **Make the following changes to SECTION 1621.3.12.1:**

(1) Change the first paragraph of SECTION 1621.3.12.1, Mechanical equipment, to read as follows: Mechanical equipment that is within the scope of Section 101.2 having an I_p greater than 1.0 shall meet the following requirements:

1. For equipment components vulnerable to impact, equipment components constructed of nonductile materials, or in cases where material ductility is reduced (e.g., low temperature applications), seismic impact shall be prevented.

2. The design shall include the effect of loadings imposed on the equipment by attached utility or service lines due to differential motions of points of support from separate structures.

(2) **In fourth line, in the second paragraph, delete “exempted amounts” and insert “maximum allowable quantities”.**

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-143; filed Apr 21, 2003, 8:30 a.m.: 26 IR 2939; filed Sep 12, 2005, 9:45 a.m.: 29 IR 501)

SECTION 32. 675 IAC 13-2.4-180.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-180.5 Table 1904.4.1; maximum chloride ion content for corrosion protection of reinforcement

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 180.5. In the second column of TABLE 1904.4.1, delete “DL” and insert “DI”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-180.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 502)*

SECTION 33. 675 IAC 13-2.4-201.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-201.5 Section 2109.5.5.2; additional provisions

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 201.5. In SECTION 2109.5.5.2, delete “1504.2, 1504.3 and 1504.4” and insert “1503.2, 1503.3, and 1503.4”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-201.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 502)*

SECTION 34. 675 IAC 13-2.4-201.7 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-201.7 Section 2110.1.1; limitations

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 201.7. In the first sentence of SECTION 2110.1.1, delete “fire separation assemblies” and insert “fire barriers”. *(Fire Prevention and Building Safety Commission; 675*

IAC 13-2.4-201.7; filed Sep 12, 2005, 9:45 a.m.: 29 IR 502)

SECTION 35. 675 IAC 13-2.4-210.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-210.3 Table 2304.6.1; minimum thickness of wall sheathing

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 210.3. In TABLE 2304.6.1, in the column “MINIMUM THICKNESS”, change “1½ inch” to “½ inch” for Fiberboard. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-210.3; filed Sep 12, 2005, 9:45 a.m.: 29 IR 502)*

SECTION 36. 675 IAC 13-2.4-210.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-210.5 Table 2304.9.1; fastening schedule

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 210.5. Change TABLE 2304.9.1 as follows: In the column heading, CONNECTION, at item 6, “Sole plate to joist or blocking at braced wall panel”, in the column heading, FASTENING, add the number “4” at the beginning of the last two (2) lines. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-210.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 502)*

SECTION 37. 675 IAC 13-2.4-213.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-213.3 Section 2304.11.9; underfloor ventilation (crawlpace)

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 213.3. In SECTION 2304.11.9, delete “1202.4” and insert “1202.3”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-213.3; filed Sep 12, 2005, 9:45 a.m.: 29 IR 502)*

SECTION 38. 675 IAC 13-2.4-213.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-213.5 Section 2306.1; allowable stress design

Authority: IC 22-13-2-2; IC 22-1

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 213.5. In SECTION 2306.1, for reference standard for TRUSS PLATE INSTITUTE, INC., delete “TPI 1-1995” and insert “TPI 1”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-213.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 502)*

SECTION 39. 675 IAC 13-2.4-213.7 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-213.7 Table 2306.4.1; allowable shear (pounds per foot) for wood structural panel shear walls with framing for Douglas fir-larch, or southern pine for wind or seismic loading

Authority: IC 22-13-2-2; IC 22-1
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 213.7. Make the following changes to TABLE 2306.4.1:

- (1) At the entry for Structural 1 Sheathing, ¹⁵/₃₂ Nominal Panel Thickness, ¹/₈ Fastener Penetration: delete the entry for 10d nails and the associated values.
- (2) At the entry for Structural 1 Sheathing, ¹⁵/₃₂ Nominal Panel Thickness, ¹/₈ Fastener Penetration, Panels Applied Direct to Framing, 3 inch edge spacing (550): delete the reference to footnote "F".
- (3) At the entry for Structural 1 Sheathing, ⁷/₁₆ Nominal Panel Thickness, ¹/₈ Fastener Penetration, Panel Applied over Gypsum Sheathing, 3 inch edge spacing (550): add the reference to footnote "F".
- (4) At the entry for Sheathing, Plywood Siding, ¹⁵/₃₂ Nominal Panel Thickness, ¹/₈ Fastener Penetration, Panels Applied Direct to Framing, 3 inch edge spacing (490): delete the reference to footnote "F".
- (5) At the entry for Sheathing, Plywood Siding, ³/₈ Nominal Panel Thickness, ¹/₈ Fastener Penetration, Panels Applied Direct to Framing with 8d galvanized "casing" nails, 3 inch edge spacing (310): delete the reference to footnote "F".
- (6) Change footnote "c" to read as follows: ³/₈ inch panel thickness or siding with a span of 16 inches on center is minimum recommended where applied directly to framing as exterior siding.

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-213.7; filed Sep 12, 2005, 9:45 a.m.: 29 IR 503)

SECTION 40. 675 IAC 13-2.4-214.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-214.2 Section 2308.2.1; basic wind speed greater than 100 mph (3-second gust)

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 214.2. In SECTION 2308.2.1, delete the comma after "(WFCM)" and insert "For One-and-Two Family Dwellings, SBC High Wind Edition." *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-214.2; filed Sep 12, 2005, 9:45 a.m.: 29 IR 503)*

SECTION 41. 675 IAC 13-2.4-214.4 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-214.4 Table 2308.8(1); floor joist spans for common lumber species

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 214.4. In TABLE 2308.8(1), for 12 inch spacing, under the listing for SPECIES AND GRADE-Southern pine #2; DEAD LOAD = 10 psf; 2X12, delete "18-8" and insert "24-2". *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-214.4; filed Sep 12, 2005, 9:45 a.m.: 29 IR 503)*

SECTION 42. 675 IAC 13-2.4-214.6 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-214.6 Table 2308.9.5; header and girder spans for exterior walls (maximum header span for Douglas fir-larch, hem-fir, southern pine, and spruce-pine-fir and required jack studs)

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 214.6. In TABLE 2308.9.5, in the column titled "HEADERS SUPPORTING", change the following:

- (1) In the Roof & Ceiling section, change the numbers for 4-2x8 to read across as follows: [9-2], [1], [8-4], [1], [7-8], [1], [8-4], [1], [7-5], [1], [6-8], [1].
- (2) In the Roof, Ceiling and 1 Center-Bearing Floor section, change the numbers for 4-2x8 to read across as follows: [8-1], [1], [7-3], [1], [6-7], [1], [7-5], [1], [6-6], [1], [5-11], [2].
- (3) In the Roof, Ceiling and 1 Clear Span Floor section, change the numbers for 4-2x8 to read across as follows: [7-2], [1], [6-3], [2], [5-7], [2], [7-0], [1], [6-1], [2], [5-6], [2].
- (4) In the Roof, Ceiling and 2 Center-Bearing Floors section, change the numbers for 4-2x8 to read across as follows: [6-10], [1], [6-0], [2], [5-5], [2], [6-8], [1], [5-10], [2], [5-3], [2].
- (5) In the Roof, Ceiling and 2 Clear Span Floors section, change the numbers for 4-2x8 to read across as follows: [5-7], [2], [4-10], [2], [4-4], [2], [5-6], [2], [4-9], [2], [4-3], [2].

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-214.6; filed Sep 12, 2005, 9:45 a.m.: 29 IR 503)

SECTION 43. 675 IAC 13-2.4-214.7 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-214.7 Table 2308.9.6; header and girder spans for exterior walls (maximum header span for Douglas fir-larch, hem-fir, southern pine, and spruce-pine-fir and required jack studs)

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

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Sec. 214.7. Make the following changes to TABLE 2308.9.6:

- (1) In the third line of the heading, after “Maximum” and before “spans”, delete “header”.
- (2) In the One Floor Only section, change the numbers for 4-2×8 to read across as follows: [9-0], [1], [7-8], [1], [6-9], [1].
- (3) In the Two Floors section, change the numbers for 4-2×8 to read across as follows: [6-1], [1], [5-3], [2], [4-8], [2].

(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-214.7; filed Sep 12, 2005, 9:45 a.m.: 29 IR 503)

SECTION 44. 675 IAC 13-2.4-228.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 13-2.4-228.5 Section 3104.5; fire barriers between pedestrian walkways and buildings

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7; IC 36-8

Sec. 228.5. In the first sentence of Condition 1 of the exception to SECTION 3104.5, delete “connected buildings are” and insert “a connected building is”. *(Fire Prevention and Building Safety Commission; 675 IAC 13-2.4-228.5; filed Sep 12, 2005, 9:45 a.m.: 29 IR 504)*

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TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #04-275(F)

DIGEST

Adds 675 IAC 27, the Indiana Visitability Rule for One and Two Family Dwellings and Townhouses. Effective 30 days after filing with the Secretary of State.

675 IAC 27

SECTION 1. 675 IAC 27 IS ADDED TO READ AS FOLLOWS:

ARTICLE 27. INDIANA VISITABILITY RULE FOR

ONE AND TWO FAMILY DWELLINGS AND TOWNHOUSES

Rule 1. Indiana Visitability Rule

675 IAC 27-1-1 Scope and enforcement

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 1. This rule applies only to the design and construction of one (1) or more visitability features in one (1) and two (2) family dwellings and Class 1 townhouses. In accordance with IC 22-13-4-7(g), the provisions of this rule are not mandatory unless a person contracts with a designer or a builder for construction of a visitability feature adopted in this rule in the new construction of a dwelling, in which case the designer and builder shall comply with the standards adopted in this rule for the design and construction of the visitability feature. The standards adopted under this rule:

- (1) shall be enforced by a political subdivision that enforces the commission’s standards with respect to Class 2 structures; and
- (2) may not be enforced by the department of fire and building services.

(Fire Prevention and Building Safety Commission; 675 IAC 27-1-1; filed Sep 12, 2005, 9:48 a.m.: 29 IR 504)

675 IAC 27-1-2 Definitions

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 2. The following definitions apply throughout this rule:

- (1) “Accessible” means that a dwelling or portion of a dwelling can be approached, entered, and used by persons with a disability.
- (2) “Accessible route” means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a disability using a wheelchair. Interior accessible routes may include corridors, floors, and ramps. Exterior accessible routes may include parking access aisles, curb ramps, walks, and ramps.
- (3) “Adaptable dwelling units” means dwelling units that include one (1) or more of any features of adaptable design specified in section 3 of this rule.
- (4) “Bathroom” means a bathroom, which includes a water closet (toilet), lavatory (sink), and bathtub or shower. The term does not include single-fixture facilities or those with only a water closet and lavatory. The term includes a compartmented bathroom, which is:
 - (A) one in which the fixtures are distributed among interconnected rooms;
 - (B) considered a single unit; and
 - (C) subject to the requirements for bathrooms.
- (5) “Building”, for the purpose of this rule, means a structure, facility, or portion thereof that contains or

serves a one (1) or two (2) family dwelling or townhouse.
 (6) "Building entrance on an accessible route" means an accessible entrance to a building within the site where the dwelling is located that is connected by an accessible route to public streets or sidewalks.

(7) "Clear" means unobstructed.

(8) "Dwelling unit" means a single unit of residence for a household of one (1) or more persons. Buildings containing dwelling units include the following:

- (A) Single-family dwellings.
- (B) Duplexes.
- (C) Class 1 townhouses.

(9) "Entrance" means any exterior access point to a building or portion of a building used by residents for the purpose of entering. For purposes of this rule, the term does not include a door used primarily as a service entrance, even if residents without disabilities occasionally use that door to enter.

(10) "Environmental controls" means switches or devices that control or regulate:

- (A) lights;
- (B) temperature;
- (C) fuses;
- (D) fans;
- (E) doors;
- (F) security system features; or
- (G) other features.

(11) "Loft" means an intermediate level between the floor and ceiling of any story located within a room or rooms of a dwelling that does not contain the only:

- (A) bathing facility;
- (B) lavatory;
- (C) water closet;
- (D) living area;
- (E) eating area; or
- (F) cooking area;

within the dwelling unit.

(12) "Multistory dwelling unit" means a dwelling unit with finished living space located on one (1) floor and the floor or floors immediately above or below it.

(13) "New construction" means the construction of a new dwelling on a vacant lot. The term does not include an addition to or remodeling of an existing building.

(14) "Powder room" means a room with only a water closet (toilet) and lavatory (sink).

(15) "Single-story dwelling unit" means a dwelling unit with all finished living space located on one (1) floor.

(16) "Site" means a parcel of land bounded by a property line or a designated portion of a public right-of-way.

(17) "Townhouse" means a single-family dwelling unit:

- (A) constructed in a row of attached units separated by property lines; and
- (B) with open space on at least two (2) sides.

A townhouse is regulated by the Indiana Residential Code (675 IAC 14) as a Class 1 structure.

(18) "Visitability feature" means any design feature of a

dwelling that allows a person with a mobility impairment to enter and comfortably stay in a dwelling for a duration of time. The term includes features that allow a person with a mobility impairment to:

(A) get in and out through one (1) exterior door of the dwelling without any steps; and

(B) pass through all main floor interior doors, including a bathroom.

(19) "Visitability" means that a visitability feature is provided to render a portion of a dwelling accessible.

(Fire Prevention and Building Safety Commission; 675 IAC 27-1-2; filed Sep 12, 2005, 9:48 a.m.: 29 IR 504)

675 IAC 27-1-3 Design and construction requirements

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 3. When a person contracts with a designer or builder, or both, for the construction of a dwelling with a visitability feature:

(1) the feature shall be designed and constructed in such a manner that complies with the standard put forth in the section of this rule for that feature; and

(2) the accessible route shall be designed and constructed in such a manner that:

(A) at least one (1) building entrance is on an accessible route;

(B) all doors on the accessible route shall be thirty-six (36) inches (ninety-one and forty-four hundredths (91.44) centimeters) in width; and

(C) all dwelling units shall contain the features of adaptable design, such as:

(i) an accessible route into and through the dwelling unit;

(ii) light switches, electrical receptacle outlets, thermostats, and other environmental controls in accessible locations;

(iii) reinforcements in bathroom walls to allow installation of grab bars around the toilet, tub, shower stall, and shower seat, where such facilities are provided;

(iv) kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space; and

(v) all habitable rooms shall have a minimum size of seven (7) feet by ten (10) feet.

(Fire Prevention and Building Safety Commission; 675 IAC 27-1-3; filed Sep 12, 2005, 9:48 a.m.: 29 IR 505)

675 IAC 27-1-4 Entrances

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 4. (a) Each building shall have at least one (1) building entrance on an exterior accessible route.

(b) Only one (1) entrance is required to be accessible to any one (1) ground floor of a building, except in cases where an individual dwelling unit has a separate exterior entrance. In every case, the accessible entrance shall be on an accessi-

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ble route to the dwelling unit. (*Fire Prevention and Building Safety Commission; 675 IAC 27-1-4; filed Sep 12, 2005, 9:48 a.m.: 29 IR 505*)

675 IAC 27-1-5 Usable doors

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7
 Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 5. (a) Within the dwelling unit, a door intended for user passage through the unit having a clear opening of at

least thirty-four (34) inches (eighty-six and thirty-six hundredths (86.36) centimeters) nominal width when the door is open ninety (90) degrees (one and fifty-seven hundredths (1.57) radians), measured between the face of the door and the stop, shall conform to section 3(2)(A) of this rule (see Figure 1(a), 1(b), and 1(c)). Openings more than twenty-four (24) inches (sixty and ninety-six hundredths (60.96) centimeters) in depth are not considered doorways (see Figure 1(d)). Figure 1(a) through 1(d) is as follows:

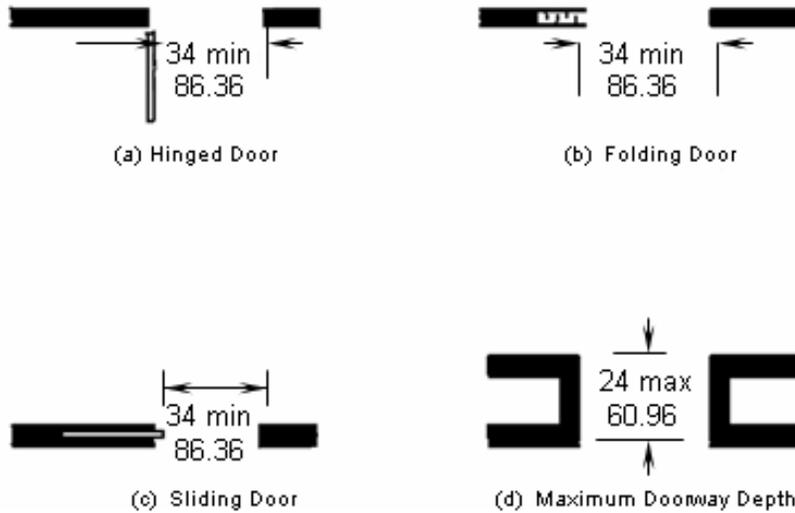


Figure 1 Clear Doorway Width and Depth

NOTE: A thirty-six (36) inch (ninety-one and forty-four hundredths (91.44) centimeters) door hung in the standard manner shall provide an acceptable, nominal thirty-four (34) inch (eighty-six and thirty-six hundredths (86.36) centimeters) clear opening. This door may be adapted to provide a wider opening by using offset hinges or by removing lower portions of the door stop, or both. Pocket or sliding doors are acceptable doors in dwelling units and have the added advantage of not impinging on clear floor space in small rooms.

(b) Handles, pulls, latches, locks, and other operable parts on accessible doors shall have a shape that is easy to grasp with one (1) hand and does not require tight grasping, pinching, or twisting of the wrist to operate. Such hardware shall be thirty-four (34) inches (eighty-six and thirty-six

hundredths (86.36) centimeters) minimum and forty-eight (48) inches (one hundred twenty-one and ninety-two hundredths (121.92) centimeters) maximum above the floor or ground. Where sliding doors are in the fully open position, operating hardware shall be exposed and usable from both sides. An exception is that locks used only for security purposes and not used for normal operation are permitted in any location. (*Fire Prevention and Building Safety Commission; 675 IAC 27-1-5; filed Sep 12, 2005, 9:48 a.m.: 29 IR 506*)

675 IAC 27-1-6 Maneuvering clearances at doors

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7
 Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 6. (a) Swinging doors shall have maneuvering clearances complying with TABLE V6.1 as follows:

TABLE V6.1 MANEUVERING CLEARANCES FOR MANUAL SWINGING DOORS

TYPE OF USE		MINIMUM CLEARANCES	
APPROACH DIRECTION	DOOR SIDE	PERPENDICULAR TO DOOR ¹	BEYOND LATCH PARALLEL TO DOOR
From front	Pull	60 inches (1,524 mm)	18 inches (457 mm)
From front	Push	48 inches (1,219 mm)	0 inches (0 mm) ²
From hinge	Pull	60 inches (1,524 mm) 54 inches (1,372 mm) ⁵	36 inches (914 mm) 42 inches (1,067 mm) ⁵

From hinge	Push	42 inches (1,067 mm) ³	54 inches (1,372 mm)
From latch	Pull	48 inches (1,219 mm) ⁴	24 inches (610 mm)
From latch	Push	42 inches (1,067 mm) ⁴	24 inches (610 mm)

¹Maneuvering space shall include full width of doorway.

²Add 12 inches (305 mm) if closer and latch provided.

³Add 6 inches (152 mm) if closer and latch provided.

⁴Add 6 inches (152 mm) if closer provided.

⁵Alternative design.

(b) Sliding doors and folding doors shall have maneuvering clearances complying with Table V6.2 as follows:

TABLE V6.2 MANEUVERING CLEARANCES FOR SLIDING AND FOLDING DOORS

APPROACH DIRECTION	MINIMUM CLEARANCES	
	PERPENDICULAR TO DOOR ¹	PARALLEL TO DOOR
From front	48 inches (1,219 mm)	0 inches (0 mm)
From hinge side	42 inches (1,067 mm)	54 inches (1,372 mm) ²
From latch side	42 inches (1,067 mm)	24 inches (610 mm) ²

¹Maneuvering space shall include full width of doorway.

²From the latch side toward the approach direction.

(c) Floor or ground surface within the maneuvering clearances shall have a slope not greater than 1:48 and shall comply with section 13 of this rule. (*Fire Prevention and Building Safety Commission; 675 IAC 27-1-6; filed Sep 12, 2005, 9:48 a.m.: 29 IR 506*)

675 IAC 27-1-7 Maneuvering clearances at doorways without doors

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 7. (a) Doorways without doors that are less than thirty-six (36) inches (nine hundred fourteen (914) millimeters) wide shall have maneuvering clearances complying with TABLE V7.1 as follows:

TABLE V7.1 MANEUVERING CLEARANCES FOR DOORWAYS WITHOUT DOORS

APPROACH DIRECTION	MINIMUM CLEARANCES
	PERPENDICULAR TO DOORWAY ¹
From front	48 inches (1,219 mm)
From side	42 inches (1,067 mm)

¹Maneuvering space shall include full width of doorway.

(b) Where the plane of the doorway is recessed more than eight (8) inches (twenty and three-tenths (20.3) centimeters) from the plane of the wall, clearances for front approach shall be provided.

2005, 9:48 a.m.: 29 IR 507

675 IAC 27-1-8 Accessible route into and through the dwelling unit

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

(c) Floor or ground surface within the maneuvering clearances shall have a slope not greater than 1:48 and shall comply with section 13 of this rule. (*Fire Prevention and Building Safety Commission; 675 IAC 27-1-7; filed Sep 12,*

Sec. 8. (a) A minimum clear width of thirty-six (36) inches (ninety-one and forty-four hundredths (91.44)

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centimeters) shall be provided.

(b) In single-story dwelling units, changes in levels within the dwelling unit with heights greater than one-fourth ($\frac{1}{4}$) inch through one-half ($\frac{1}{2}$) inch (greater than six and thirty-five hundredths (6.35) millimeters through twelve and seven-tenths (12.7) millimeters) shall be beveled with a slope no greater than 1:2. Except for design features, such as a loft or an area on a different level within a room, for example, a sunken living room, changes in levels greater than one-half ($\frac{1}{2}$) inch shall be ramped or have other means of access. Where a single-story dwelling unit has special design features, all portions of the single-story unit, except the loft or the sunken or raised area, shall be on an accessible route.

Additional requirements are as follows:

- (1) In single-story dwelling units with lofts, all spaces other than the loft shall be on an accessible route.
- (2) Design features, such as sunken or raised functional areas, shall not interrupt the accessible route through the remainder of the dwelling unit.

(c) Except as provided in subsection (e), thresholds at exterior doors, including sliding door tracks, shall be no higher than three-fourths ($\frac{3}{4}$) inch (nineteen (19) millimeters). Thresholds and changes in level at these locations shall be beveled with a slope no greater than 1:2.

(d) Exterior deck, patio, or balcony surfaces shall not be more than one-half ($\frac{1}{2}$) inch (twelve and seven-tenths (12.7) millimeters) below the floor level of the interior of the dwelling unit unless they are constructed of impervious material such as concrete, brick, or flagstone. In such case, the surface shall not be more than four (4) inches (ten and two-tenths (10.2) centimeters) below the floor level of the interior of the dwelling unit.

(e) At the primary entry door to the dwelling unit with

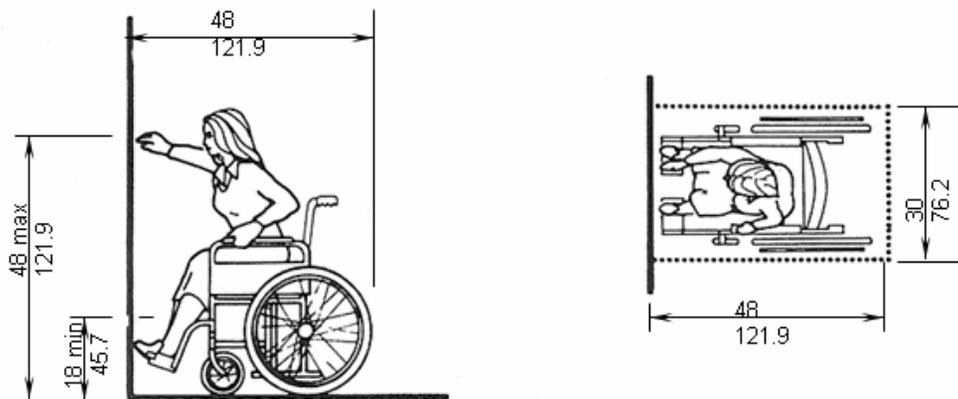
direct exterior access, outside landing surfaces constructed of impervious materials, such as concrete, brick, or flagstone, shall not be more than one-half ($\frac{1}{2}$) inch (twelve and seven-tenths (12.7) millimeters) below the floor level of the interior of the dwelling unit. The finished surface of this area that is located immediately outside the entry may be sloped, up to one-eighth ($\frac{1}{8}$) inch per foot (ten and forty-two hundredths (10.42) millimeters per meter) for drainage. *(Fire Prevention and Building Safety Commission; 675 IAC 27-1-8; filed Sep 12, 2005, 9:48 a.m.: 29 IR 507)*

675 IAC 27-1-9 Light switches, electrical receptacle outlets, thermostats, and other environmental controls in accessible locations

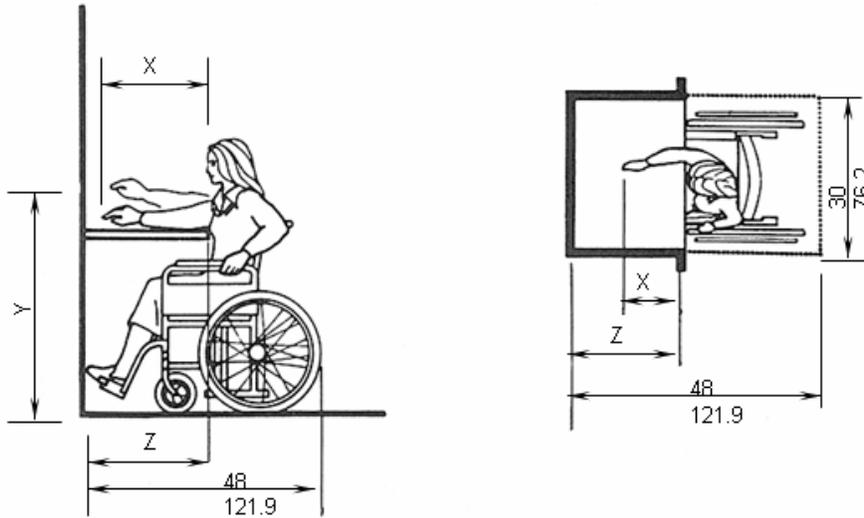
Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 9. Light switches, electrical receptacle outlets, thermostats, and other environmental controls shall be located no higher than forty-eight (48) inches (one hundred twenty-one and nine-tenths (121.9) centimeters) and no lower than eighteen (18) inches (forty-five and seventy-two hundredths (45.72) centimeters) above the floor. If the reach is over an obstruction, for example, an overhanging shelf twenty-four (24) inches (sixty and ninety-six hundredths (60.96) centimeters) in depth, the maximum height is reduced to forty-four (44) inches (one hundred eleven and seventy-six hundredths (111.76) centimeters) for forward approach, or forty-six (46) inches (one hundred sixteen and eighty-four hundredths (116.84) centimeters) for side approach, provided the obstruction, for example, a kitchen base cabinet, is no more than twenty-four (24) inches (sixty and ninety-six hundredths (60.96) centimeters) in depth. The depth of obstructions shall not exceed twenty-five (25) inches (sixty-three and five-tenths (63.5) centimeters) from the wall beneath a control (see Figure 2). Figure 2 is as follows:

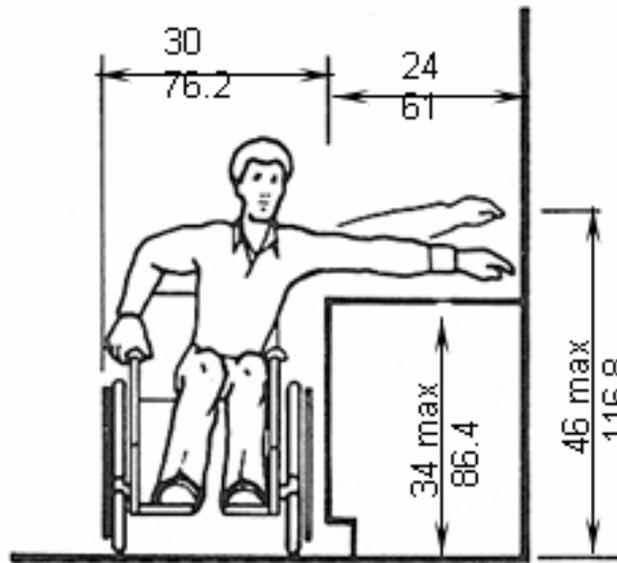


(a)
High Forward Reach Limit



NOTE: x shall be ≤ 25 in (635 mm); z shall be $\geq x$. When x < 20 in (510 mm), then y shall be 48 in (1220 mm) maximum. When x is 20 to 25 in (510 to 635 mm), then y shall be 44 in (1120 mm) maximum.

(b)
Maximum Forward Reach over an Obstruction



(c)
Maximum Side Reach over Obstruction

Figure 2 Reach Ranges

(Fire Prevention and Building Safety Commission; 675 IAC 27-1-9; filed Sep 12, 2005, 9:48 a.m.: 29 IR 508)

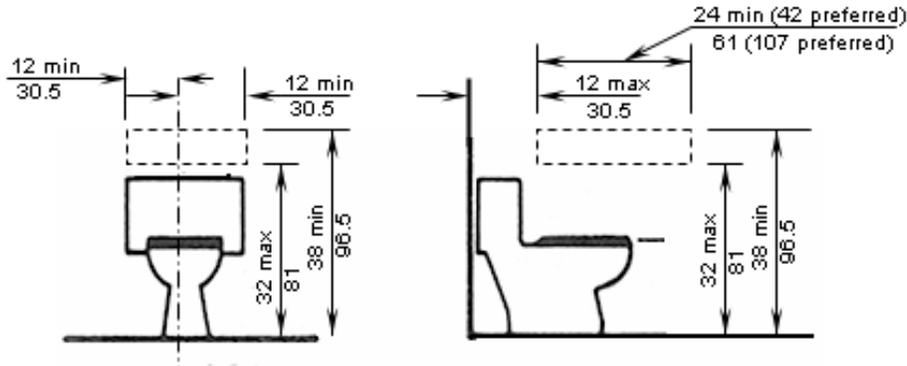
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675 IAC 27-1-10 Reinforced walls for grab bars

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7
 Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

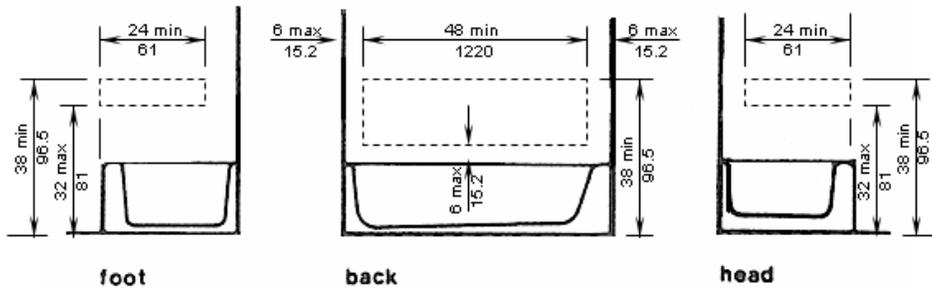
Sec. 10. (a) Reinforced bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall, and shower seat, where such facilities are provided, shall conform to section 3(2)(C)(iii) of this rule (see Figures 3, 4,

and 5). Where the toilet is not placed adjacent to a side wall, the bathroom shall comply if provision is made for installation of floor mounted foldaway or similar alternative grab bars. Where the powder room is the only toilet facility located on an accessible level of a multistory dwelling unit, it shall comply with this requirement for reinforced walls for grab bars. Figures 3, 4, and 5 are as follows:



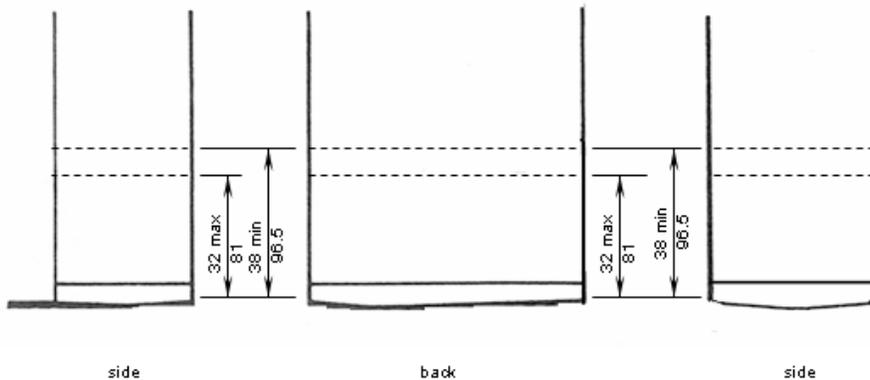
Reinforced Areas for Installation of Grab Bars

Figure 3 Water Closets in Adaptable Bathrooms



Reinforced Areas for Installation of Grab Bars

Figure 4 Bathtubs in Adaptable Bathrooms



Reinforced Areas for Installation of Grab Bars

Figure 5 Showers in Adaptable Bathrooms

NOTE: Installation of reinforcement for grab bars for bathtubs or showers is not limited by the illustrative figures. Reinforced areas for floor-mounted grab bars is [sic., are] acceptable.

(b) Reinforcement for grab bars may be provided in a variety of ways, for example, by plywood or wood blocking, so long as the necessary reinforcement is placed to permit later installation of grab bars in appropriate locations. (*Fire Prevention and Building Safety Commission; 675 IAC 27-1-10; filed Sep 12, 2005, 9:48 a.m.: 29 IR 510*)

675 IAC 27-1-11 Visitable kitchens

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-2-13-4-7

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 11. (a) A clear floor space at least thirty (30) inches by forty-eight (48) inches (seventy-six and two-tenths (76.2) centimeters by one hundred twenty-one and nine-tenths (121.9) centimeters) that allows a parallel approach by a person in a wheelchair shall be provided at the range or cooktop and sink, and either a parallel or forward approach shall be provided at the oven, dishwasher, refrigerator/freezer, or trash compactor (see Figure 6). Figure 6 is as follows:

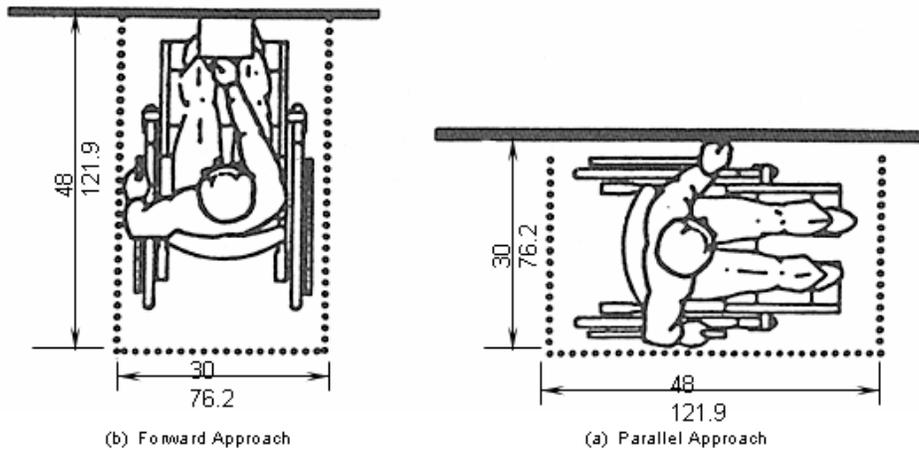


Figure 6 Minimum Clear Floor Space for Wheelchairs

(b) Clearance between counters and all opposing base cabinets, countertops, appliances, or walls shall be at least forty (40) inches (one hundred one and six-tenths (101.6) centimeters).

(c) In U-shaped kitchens with a sink, range, or cooktop at the base of the “U”, a sixty (60) inch (one hundred fifty-two and four-tenths (152.4) centimeters) diameter turning space shall be provided to allow parallel approach, or base cabinets shall be removable at that location to allow knee space for a forward approach. (*Fire Prevention and Building Safety Commission; 675 IAC 27-1-11; filed Sep 12, 2005, 9:48 a.m.: 29 IR 511*)

675 IAC 27-1-12 Visitable bathrooms

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 12. (a) Either all bathrooms in the dwelling unit shall comply with subsection (b) or at least one (1) bathroom in the dwelling unit shall comply with subsection (b) and all other bathrooms and powder rooms within the dwelling unit shall be on an accessible route with usable entry doors in

accordance with TABLE V6.1 in section 6(a) of this rule or TABLE V6.2 in section 6(b) of this rule.

(b) Bathrooms that have reinforced walls for grab bars (see section 10 of this rule) shall conform to section 3(2)(B)(iii) [sic.] of this rule as follows:

- (1) Sufficient maneuvering space shall be provided within the bathroom for a person using a wheelchair or other mobility aid to:
 - (A) enter and close the door;
 - (B) use the fixtures;
 - (C) reopen the door; and
 - (D) exit.

Doors may swing into the clear floor space provided at any fixture if the maneuvering space is provided. Maneuvering spaces may include any knee space or toe space available below bathroom fixtures.

(2) Clear floor space shall be provided at fixtures as shown in Figures 7(a), 7(b), 7(c), and 7(d). Clear floor space at fixtures may overlap. Figure 7(a) through 7(d) is as follows:

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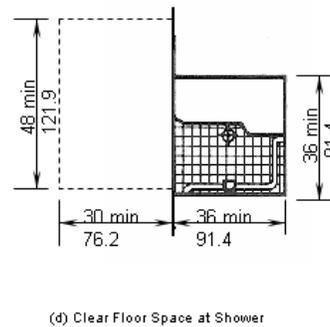
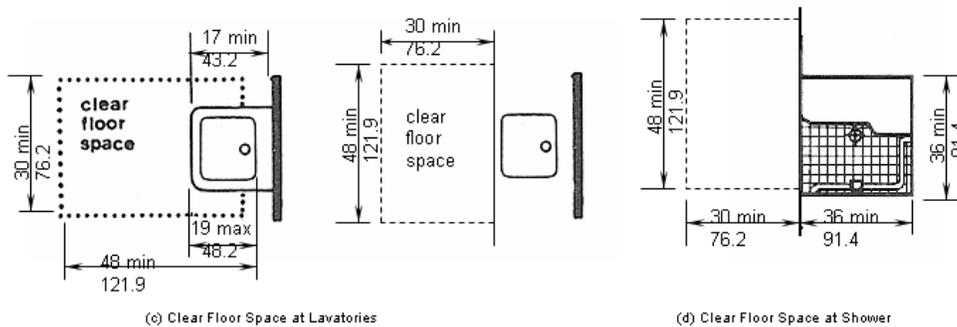
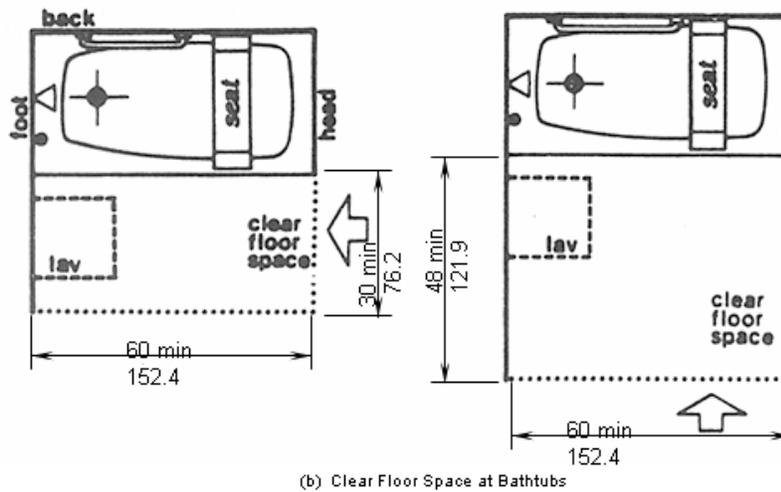
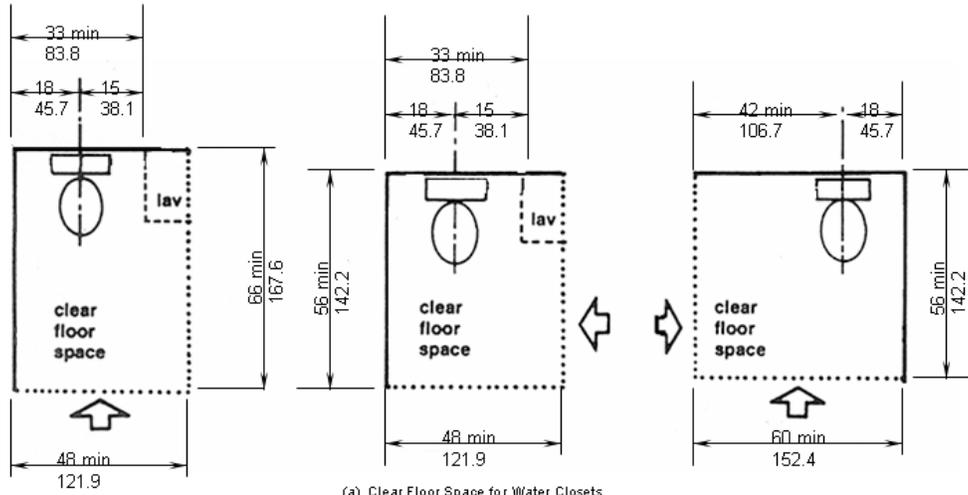


Figure 7 Clear Floor Space for Adaptable Bathrooms

(3) If the shower stall is the only bathing facility provided in the dwelling unit, the shower stall shall measure at least thirty-six (36) inches by thirty-six (36) inches (ninety-one and forty-four hundredths (91.44) centimeters by ninety-one and forty-four hundredths (91.44) centimeters). Cabinets under lavatories are acceptable provided the bathroom has space to allow a parallel approach by a person in a wheelchair. If a parallel approach is not possible within the space, any cabinets provided shall be removable to afford the necessary knee clearance for forward approach.

(4) Where the door swings into the bathroom, there shall be a clear space approximately thirty (30) inches by forty-eight (48) inches (seventy-six and two-tenths (76.2) centimeters by one hundred twenty-one and ninety-two hundredths (121.92) centimeters) within the room to position a wheelchair or other mobility aid clear of the path of the door as it is closed and to permit use of fixtures. This clear space may include any knee space and toe space available below bathroom fixtures.

(5) Where the door swings out, a clear space shall be provided within the bathroom for a person using a wheelchair or other mobility aid to:

- (A) position the wheelchair such that the person is allowed use of the fixtures; and
- (B) reopen the door to exit.

(6) When:

- (A) both tub and shower fixtures; or
- (B) two (2) or more lavatories;

are provided in a bathroom, at least one (1) shall be made accessible.

(7) Toilets shall be located within bathrooms in a manner that permits a grab bar to be installed on one (1) side of the fixture. In locations where toilets are adjacent to walls or bathtubs, the centerline of the fixture shall be at least eighteen (18) inches (forty-five and seventy-two hundredths (45.72) centimeters) from the wall or bathtub. The other (nongrab bar) side of the toilet fixture shall be at least fifteen (15) inches (thirty-eight and one-tenth (38.1) centimeters) from the finished surface of adjoining walls, vanities, or the edge of a lavatory (see Figure 7(a) in subdivision (2)).

(8) Vanities and lavatories shall be installed with the centerline of the fixture at least fifteen (15) inches (thirty-eight and one-tenth (38.1) centimeters) horizontally from an adjoining wall or fixture. The top of the fixture rim shall not exceed thirty-four (34) inches (eighty-six and thirty-six hundredths (86.36) centimeters) above the finished floor. If knee space is provided below the vanity, the bottom of the apron shall be at least twenty-seven (27) inches (sixty-eight and fifty-eight hundredths (68.58) centimeters) above the floor. If provided, full knee space (for front approach) shall be at least seventeen (17) inches (forty-three and eighteen-hundredths (43.18) centimeters) deep (see Figure 7(c) in subdivision (2)).

(9) For bathtubs and tub/showers located in the bathroom, a clear access aisle adjacent to the bathtub or tub/shower shall be provided that shall be at least thirty (30) inches (seventy-six and two-tenths (76.2) centimeters) wide and extend forty-eight (48) inches (one hundred twenty-one and ninety-two hundredths (121.92) centimeters) (measured from the head of the bathtub or tub/shower) (see Figure 8). Figure 8 is as follows:

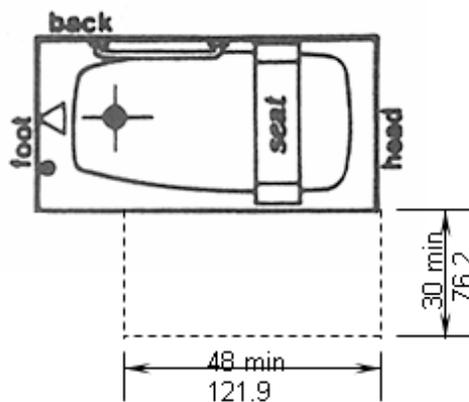


Figure 8 Alternative Specification – Clear Floor Space at Bathtub

(10) Stall showers in the bathroom may be of any size or configuration. A minimum clear floor space measuring at least thirty (30) inches (seventy-six and two-tenths (76.2) centimeters) by forty-eight (48) inches (one hundred twenty-one and ninety-two hundredths (121.92) centimeters) shall be available outside the stall (see Figure 7(d) in

subdivision (2)). If the shower stall is the only bathing facility provided in the dwelling unit, or on the accessible level of a multistory unit, and it measures a nominal thirty-six (36) inches by thirty-six (36) inches (ninety-one and forty-four hundredths (91.44) centimeters by ninety-one and forty-four hundredths (91.44) centimeters) or

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smaller, the shower stall shall have reinforcement to allow for installation of an optional hung bench seat.

(Fire Prevention and Building Safety Commission; 675 IAC 27-1-12; filed Sep 12, 2005, 9:48 a.m.: 29 IR 511)

675 IAC 27-1-13 Floor or ground surfaces

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-23-4-7

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 13. (a) Floor or ground surfaces shall:

- (1) be stable, firm, and slip-resistant; and
- (2) comply with this section.

(b) Carpet or carpet tile shall:

- (1) be securely attached;
- (2) have a firm cushion, pad, or backing or no cushion or pad; and
- (3) have a level loop, textured loop, level cut pile, or level cut/uncut pile texture.

Pile height shall be one-half (½) inch (twelve and seven-tenths (12.7) millimeters) maximum. Exposed edges of carpet shall be fastened to floor or ground surfaces and shall have trim along the entire length of the exposed edge. Carpet edge trim shall comply with subsection (d).

(c) Openings in floor or ground surfaces shall be of a size that does not permit the passage of a one-half (½) inch (twelve and seven-tenths (12.7) millimeters) diameter sphere. Elongated openings shall be placed so that the long dimension is perpendicular to the dominant direction of travel.

(d) The following change in level requirements for floor or ground surfaces are applicable:

- (1) Vertical changes in level of one-fourth (¼) inch (six and thirty-five hundredths (6.35) millimeters) maximum shall be permitted.
- (2) Changes in level greater than one-fourth (¼) inch (six and thirty-five hundredths (6.35) millimeters) through one-half (½) inch (twelve and seven-tenths (12.7) millimeters) maximum shall be beveled with a slope not greater than 1:2.

(3) Changes in level greater than one-half (½) inch (twelve and seven-tenths (12.7) millimeters) shall be ramped and shall comply with section 14(b) of this rule.

(Fire Prevention and Building Safety Commission; 675 IAC 27-1-13; filed Sep 12, 2005, 9:48 a.m.: 29 IR 514)

675 IAC 27-1-14 Exterior accessible routes

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-7

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 14. (a) Exterior accessible routes shall consist of one (1) or more of the following components:

- (1) Walking surfaces with a slope not greater than 1:20.
- (2) Doorways.
- (3) Ramps.
- (4) Curb ramps.
- (5) Elevators.
- (6) Wheelchair (platform) lifts.

(b) All components of an exterior accessible route shall comply with the applicable portions of this rule and as follows:

- (1) Walking surfaces that are a part of an exterior accessible route shall comply with section 13 of this rule.
- (2) Floor or ground surfaces shall comply with section 13 of this rule.
- (3) The running slope of walking surfaces shall not be greater than 1:20. The cross slope of a walking surface shall not be greater than 1:48.
- (4) Changes in level shall comply with section 13 of this rule.
- (5) The clear width of an exterior accessible route shall be thirty-six (36) inches (ninety-one and forty-four hundredths (91.44) centimeters) minimum. Clear width may be reduced to thirty-two (32) inches (eighty-one and twenty-eight hundredths (81.28) centimeters) for a twenty-four (24) inch (six and ninety-six hundredths (6.96) centimeters) maximum segment, and segments shall be separated by no less than forty-eight (48) inches (one hundred twenty-one and ninety-two hundredths (121.92) centimeters) of thirty-six (36) inch (ninety-one and forty-four hundredths (91.44) centimeters) width (see Figure 9). Figure 9 is as follows:

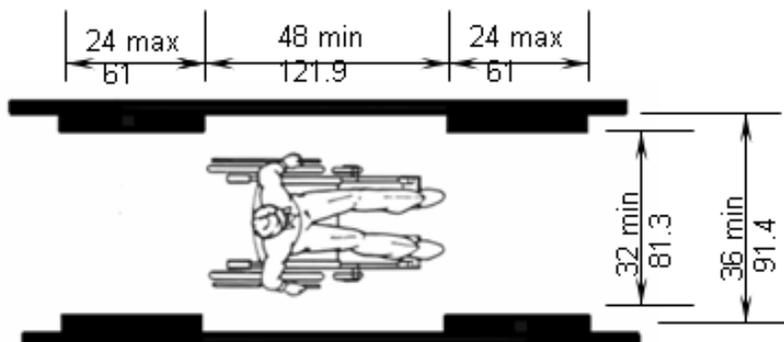
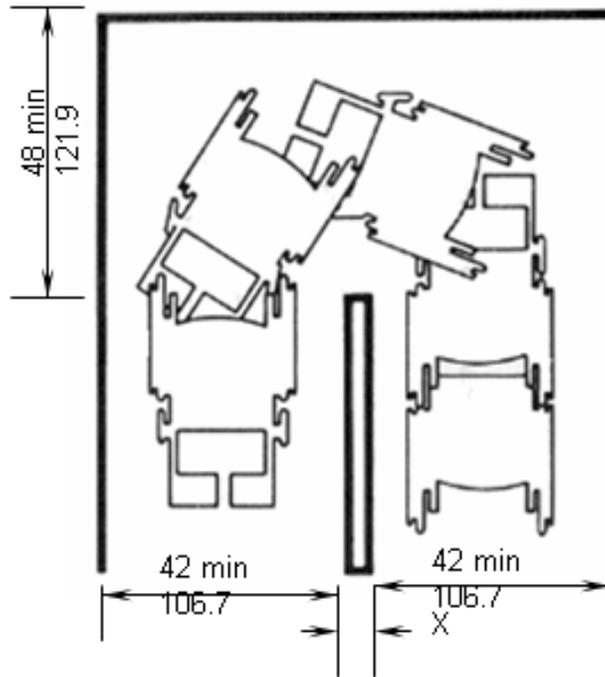


Figure 9 Clear Width of an Accessible Route

(6) Where an exterior accessible route makes a one hundred eighty (180) degree (three and one hundred forty-two thousandths (3.142) radians) turn around an object that is less than forty-eight (48) inches (one hundred twenty-one and ninety-two hundredths (121.92) centimeters) wide, clear widths shall be forty-two (42) inches (one hundred six and sixty-eight hundredths

(106.68) centimeters) minimum approaching the turn; forty-eight (48) inches (one hundred twenty-one and ninety-two hundredths (121.92) centimeters) minimum during the turn; and forty-two (42) inches (one hundred six and sixty-eight hundredths (106.68) centimeters) minimum leaving the turn (see Figure 10). Figure 10 is as follows:



NOTE: Dimensions shown apply when $x < 48$ in.

Figure 10 Clear Width at Turn

(c) Walking surfaces on exterior accessible routes with a running slope greater than 1:20 are ramps and shall comply with the following:

- (1) Ramps shall have a running slope not greater than 1:12.
- (2) The cross slope of ramp runs shall not be greater than 1:48.
- (3) Floor or ground surfaces of ramps shall comply with section 13 of this rule.
- (4) The clear width of a ramp shall be thirty-six (36) inches (ninety-one and forty-four hundredths (91.44) centimeters) minimum.
- (5) The rise for any ramp run shall be thirty (30) inches (seventy-six and two-tenths (76.2) centimeters) maximum.

(d) Ramps shall have landings at the bottom and top of each run. Landings shall comply with the following:

- (1) Landings shall have a slope not greater than 1:48 and shall comply with section 13 of this rule.
- (2) The clear width of landings shall be at least as wide as

the widest ramp run leading to the landing.

(3) The landing length shall be sixty (60) inches (one hundred fifty-two and four-tenths (152.4) centimeters) minimum clear.

(4) Ramps that change direction at landings shall have a sixty (60) inch by sixty (60) inch (one hundred fifty-two and four-tenths (152.4) centimeters by one hundred fifty-two and four-tenths (152.4) centimeters) minimum landing at the change in direction.

(5) Where doorways are adjacent to a ramp landing, maneuvering clearances required by section 6 of this rule shall be permitted to overlap the landing area.

(6) Landings with a rise greater than six (6) inches (fifteen and twenty-four hundredths (15.24) centimeters) shall have handrails complying with subsection (f). Handrails shall not reduce the required clearances of a ramp run or landing.

(7) Edge protection complying with subdivision (9) shall be provided on each side of ramp runs and on each side of ramp landings. Exceptions are as follows:

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(A) Ramps not required to have handrails where sides complying with subsection (e)(3) are provided.

(B) Sides of ramp landings serving an adjoining ramp run or stairway.

(C) Sides of ramp landings having a vertical drop-off of one-half ($\frac{1}{2}$) inch (twelve and seven-tenths (12.7) millimeters) maximum within ten (10) inches (twenty-five and four-tenths (25.4) centimeters) horizontally of the minimum landing area.

(8) The floor or ground surface of the ramp run or landing shall extend a minimum of twelve (12) inches (thirty and forty-eight hundredths (30.48) centimeters) beyond the inside face of a railing complying with subsection (f).

(9) A curb or barrier shall be provided that prevents the passage of a four (4) inch (ten and sixteen-hundredths (10.16) centimeters) diameter sphere below a height of four (4) inches (ten and sixteen-hundredths (10.16) centimeters).

(10) Outdoor ramps and approaches to ramps shall be designed so that water will not accumulate on walking surfaces.

(e) Curb ramps shall comply with the following:

(1) Slopes of curb ramps shall comply with this section.

(2) Counter slopes of adjoining gutters and road surfaces immediately adjacent to the curb ramp or accessible route shall not be greater than 1:20. Transitions from ramps to walks, gutters, or streets shall be at the same level.

(3) Where pedestrians must walk across a curb ramp, the ramp shall have flared sides. The slope of flares shall not be greater than 1:10. Where the width of the walking surface at the top of the ramp and parallel to the run of the ramp is less than forty-eight (48) inches (one hundred twenty-one and ninety-two hundredths (121.92) centimeters), the flared sides shall have a slope not greater than 1:12. Curb ramps with returned curbs shall be permitted where pedestrians would not normally walk across the ramp.

(4) Curb ramps shall be thirty-six (36) inches (ninety-one and forty-four hundredths (91.44) centimeters) wide minimum, exclusive of flared sides.

(5) Floor or ground surfaces of curb ramps shall comply with section 13 of this rule.

(f) Handrails shall be provided on both sides of ramps and shall comply with the following:

(1) Handrails shall be continuous within the full length of each ramp run. Inside handrails on switchback or dogleg ramps shall be continuous between runs. Other handrails shall comply with subdivision (9).

(2) The top of gripping surfaces of handrails shall be thirty-four (34) inches (eighty-six and thirty-six hundredths (86.36) centimeters) minimum and thirty-eight (38) inches (ninety-six and fifty-two hundredths (96.52) centimeters) maximum vertically above ramp surfaces.

Handrails shall be at a consistent height above ramp surfaces.

(3) Clear space between the handrail and wall shall be one and one-half ($1\frac{1}{2}$) inches (three and eighty-one hundredths (3.81) centimeters) minimum.

(4) Gripping surfaces shall be continuous without interruption by newel posts, other construction elements, or obstructions. An exception is that handrail brackets or balusters attached to the bottom surface of the handrail shall not be considered obstructions provided they comply with the following criteria:

(A) Not more than twenty percent (20%) of the handrail length is obstructed.

(B) Horizontal projections beyond the sides of the handrail occur two and one-half ($2\frac{1}{2}$) inches (six and thirty-five hundredths (6.35) centimeters) minimum below the bottom of the handrail.

(C) Edges have a one-eighth ($\frac{1}{8}$) inch (three and eighteen-hundredths (3.18) millimeters) minimum radius.

(5) Handrails shall:

(A) have a circular cross section with an outside diameter of one and one-fourth ($1\frac{1}{4}$) inches (thirty-one and seventy-five hundredths (31.75) millimeters) minimum and two (2) inches (fifty and eight-tenths (50.8) millimeters) maximum; or

(B) provide equivalent graspability complying with subdivision (4).

(6) Handrails with other shapes shall be permitted provided:

(A) they have a perimeter dimension of four (4) inches (ten and sixteen-hundredths (10.16) centimeters) minimum and six and one-fourth ($6\frac{1}{4}$) inches (fifteen and eight hundred seventy-five thousandths (15.875) centimeters) maximum; and

(B) their largest cross section dimension is two and one-fourth ($2\frac{1}{4}$) inches (five and seven hundred fifteen-thousandths (5.715) centimeters) maximum.

(7) Handrails, and any wall or other surfaces adjacent to them, shall be free of any sharp or abrasive elements. Edges shall have a one-eighth ($\frac{1}{8}$) inch (three and eighteen-hundredths (3.18) millimeters) minimum radius.

(8) Handrails shall not rotate within their fittings.

(9) Ramp handrails shall extend horizontally twelve (12) inches (thirty and forty-eight hundredths (30.48) centimeters) minimum beyond the top and bottom of ramp runs. Such extension shall return to a wall, a guard, or the walking surface or shall be continuous to the handrail of an adjacent ramp run. An exception is continuous handrails at the inside turn of ramps.

(Fire Prevention and Building Safety Commission; 675 IAC 27-1-14; filed Sep 12, 2005, 9:48 a.m.: 29 IR 514)

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TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #05-5(F)

DIGEST

Amends 760 IAC 3-1, 760 IAC 3-2, 760 IAC 3-4 through 760 IAC 3-9, 760 IAC 3-11, 760 IAC 3-12, 760 IAC 3-14, 760 IAC 3-15, and 760 IAC 3-18 to implement updates to the National Association of Insurance Commissioner model Medicare supplement insurance minimum standards model act. *NOTE: LSA Document #05-5, printed at 28 IR 2425, was resubmitted for publication and reprinted at 28 IR 3013.* Effective 30 days after filing with the Secretary of State.

760 IAC 3-1-1	760 IAC 3-8-1
760 IAC 3-2-2.5	760 IAC 3-9-1
760 IAC 3-2-6.1	760 IAC 3-9-2
760 IAC 3-2-6.2	760 IAC 3-11-1
760 IAC 3-2-7	760 IAC 3-12-1
760 IAC 3-4-1	760 IAC 3-14-1
760 IAC 3-5-1	760 IAC 3-15-1
760 IAC 3-6-1	760 IAC 3-18-1
760 IAC 3-7-1	

SECTION 1. 760 IAC 3-1-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-1-1 Applicability and scope

Authority: IC 27-8-13-10
Affected: IC 27-8-13-1

Sec. 1. (a) Except as otherwise specifically provided in 760 IAC 3-5, **760 IAC 3-10**, 760 IAC 3-11, 760 IAC 3-14, **760 IAC 3-18**, and 760 IAC 3-19, this article shall apply to the following:

- (1) All Medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this regulation.
- (2) All certificates issued under group Medicare supplement policies which certificates have been delivered or issued for delivery in this state.

- (b) This article shall not apply to a policy or contract of:
 - (1) one (1) or more employers or labor organizations; or ~~of~~
 - (2) the trustees of a fund established by one (1) or more employers or labor organizations, or combination thereof; for employees or former employees, or a combination thereof, or ~~for~~ members or former members, or a combination thereof, of

the labor organizations. (*Department of Insurance; 760 IAC 3-1-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2563; filed Jul 18, 1996, 1:00 p.m.: 19 IR 3412; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 517*)

SECTION 2. 760 IAC 3-2-2.5 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-2-2.5 “Bankruptcy” defined

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1
Affected: IC 27-8-13-1

Sec. 2.5. As used in this rule, “bankruptcy” means when a ~~Medicare+Choice~~ **Medicare Advantage** organization that is not an issuer has:

- (1) filed, or has had filed against it, a petition for declaration of bankruptcy; and ~~has~~
- (2) ceased doing business in Indiana.

(*Department of Insurance; 760 IAC 3-2-2.5; filed Feb 1, 1999, 10:45 a.m.: 22 IR 1972; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 517*)

SECTION 3. 760 IAC 3-2-6.1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-2-6.1 “Medicare Advantage” defined

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1
Affected: IC 27-8-13-1

Sec. 6.1. As used in this rule, ~~“Medicare+Choice organization”~~ **“Medicare Advantage”** has the meaning as set forth in 42 U.S.C. 1395w-28. (*Department of Insurance; 760 IAC 3-2-6.1; filed Feb 1, 1999, 10:45 a.m.: 22 IR 1973; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 517*)

SECTION 4. 760 IAC 3-2-6.2 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-2-6.2 “Medicare Advantage plan” defined

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1
Affected: IC 27-8-13-1

Sec. 6.2. As used in this rule, ~~“Medicare+Choice~~ **“Medicare Advantage plan”** has the meaning as set forth in 42 U.S.C. 1395w-28. (*Department of Insurance; 760 IAC 3-2-6.2; filed Feb 1, 1999, 10:45 a.m.: 22 IR 1973; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 517*)

SECTION 5. 760 IAC 3-2-7 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-2-7 “Medicare supplement policy” defined

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1
Affected: IC 27-8-13-1

Sec. 7. “Medicare supplement policy” means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical service associations

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or health maintenance organizations, other than:

(1) a policy issued pursuant to a contract under Section 1876 of the Social Security Act (42 U.S.C. §1395 1395 et seq.); or
(2) an issued policy under a demonstration project specified in 42 U.S.C. 1395ss(g)(1); ~~which~~
that is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare. **The term does not include Medicare Advantage plans established under Medicare Part C, Outpatient Prescription Drug plans established under Medicare Part D, or any health care prepayment plan that provides benefits pursuant to an agreement under Section 1833(a)(1)(A) of the Social Security Act.** (Department of Insurance; 760 IAC 3-2-7; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2564; filed Jul 18, 1996, 1:00 p.m.: 19 IR 3413; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 517)

SECTION 6. 760 IAC 3-4-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-4-1 Policy provisions

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1
Affected: IC 27-8-13-1

Sec. 1. (a) Except for permitted preexisting condition clauses as described in ~~760 IAC 3-5-1(b)(1)~~ **760 IAC 3-5-1(b)(1)(A), 760 IAC 3-5-1(b)(1)(B),** and 760 IAC 3-6-1(b), no policy or certificate shall be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy if ~~such~~ **the** policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(b) No Medicare supplement policy or certificate may use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

(c) No Medicare supplement policy or certificate in force in the state shall contain benefits ~~which that~~ duplicate benefits provided by Medicare.

(d) Subject to 760 IAC 3-5-1(b)(3) through 760 IAC 3-5-1(b)(7), 760 IAC 3-5-1(b)(9), 760 IAC 3-6-1(b)(3), and 760 IAC 3-6-1(b)(4), a Medicare supplement policy with benefits for outpatient prescription drugs in existence before January 1, 2006, shall be renewed for current policyholders who do not enroll in Part D at the option of the policyholder.

(e) A Medicare supplement policy with benefits for outpatient prescription drugs shall not be issued after December 31, 2005.

(f) After December 31, 2005, a Medicare supplement policy with benefits for outpatient prescription drugs may not be renewed after the policyholder enrolls in Medicare Part D unless:

(1) the policy is modified to eliminate outpatient prescription coverage for expenses of outpatient prescription drugs incurred after the effective date of the individual's coverage under a Part D plan; and

(2) premiums are adjusted to reflect the elimination of outpatient prescription drug coverage at the time of Medicare Part D enrollment, accounting for any claims paid, if applicable.

(Department of Insurance; 760 IAC 3-4-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2565; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 518)

SECTION 7. 760 IAC 3-5-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-5-1 Minimum benefit standards for policies or certificates issued for delivery before January 1, 1992

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1
Affected: IC 27-8-13-1

Sec. 1. (a) No policy or certificate may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy or certificate ~~prior to before~~ January 1, 1992, unless it meets or exceeds the minimum standards in this section. These are minimum standards and do not preclude the inclusion of other provisions or benefits ~~which that~~ are not inconsistent with these standards.

(b) The following standards apply to Medicare supplement policies and certificates issued ~~prior to before~~ January 1, 1992, and are in addition to all other requirements of this article:

(1) A Medicare supplement policy or certificate shall not:

(A) exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition; ~~The policy or certificate shall not~~

(B) define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage; ~~or~~
~~(2) A Medicare supplement policy or certificate shall not~~
(C) indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

~~(3)~~ **(2)** A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with ~~such the~~ changes.

~~(4)~~ **(3)** A "noncancellable", "guaranteed renewable", or "noncancellable and guaranteed renewable" Medicare supplement policy shall not:

(A) provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

(B) be canceled or nonrenewed by the issuer solely on the grounds of deterioration of health.

~~(5)~~ **(4)** Except as authorized by the commissioner of the department of insurance in this state, an issuer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

~~(6)~~ **(5)** If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in subdivision ~~(8)~~; **(7)**, the issuer shall offer certificate holders **at least** an individual Medicare supplement policy: ~~The issuer shall offer the certificate holder at least the following choices:~~

(A) ~~An individual Medicare supplement policy~~ currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; **or**

(B) ~~An individual Medicare supplement policy which that~~ provides only such benefits as are required to meet the minimum standards as defined in 760 IAC 3-6-1(c).

~~(7)~~ **(6)** If membership in a group is terminated, the issuer shall **offer the certificate holder:**

(A) ~~offer the certificate holder such the~~ conversion opportunities ~~as are~~ described in subdivision ~~(6)~~; **(5)**; or

(B) at the option of the group policyholder, ~~offer the certificate holder~~ continuation of coverage under the group policy.

~~(8)~~ **(7)** If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

~~(9)~~ **(8)** Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss ~~which that~~ commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to:

(A) the duration of the policy benefit period, if any; or ~~to~~

(B) payment of the maximum benefits.

Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(9) If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug Improvement and Modernization Act of 2003, the modified policy shall be deemed to satisfy the guaranteed renewal requirements of this subsection.

(c) Minimum benefit standards are as follows:

(1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the

sixty-first day through the ninetieth day in any Medicare benefit period.

(2) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount.

(3) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during ~~the~~ use of Medicare's lifetime hospital inpatient reserve days.

(4) Upon exhaustion of all Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days.

(5) Coverage under Medicare Part A for the reasonable cost of:

(A) the first three (3) pints of blood; or

(B) equivalent quantities of packed red blood cells, as defined under federal regulations;

unless replaced in accordance with federal regulations or already paid for under Part B.

(6) Coverage for the coinsurance amount of Medicare eligible expenses under Part B, regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible (one hundred dollars (\$100)).

(d) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of:

(1) the first three (3) pints of blood; or

(2) equivalent quantities of packed red blood cells, as defined under federal regulations;

unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount. (*Department of Insurance; 760 IAC 3-5-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2565; filed Jul 18, 1996, 1:00 p.m.: 19 IR 3413; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 518*)

SECTION 8. 760 IAC 3-6-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-6-1 Benefit standards for policies or certificates issued or delivered after December 31, 1991

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1

Affected: IC 27-8-13-1

Sec. 1. (a) The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state ~~on or after January 1, 1992.~~ **December 31, 1991.** No policy or certificate may be:

(1) advertised;

(2) solicited;

(3) delivered; or

(4) issued for delivery;

in this state as a Medicare supplement policy or certificate unless ~~it~~ **the policy or certificate** complies with ~~the~~ **the** benefit standards in this section.

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(b) The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this article:

(1) A Medicare supplement policy or certificate:

(A) shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition; ~~The policy or certificate~~

(B) may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage; **and**

~~(2) A Medicare supplement policy or certificate~~ (C) shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

~~(3)~~ (2) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

~~(4)~~ (3) No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

~~(5)~~ (4) Each Medicare supplement policy shall be guaranteed renewable and shall meet the following requirements:

(A) The issuer shall not cancel or nonrenew the policy:

- (i) solely on the ground of health status of the individual; **or**
- ~~(B) The issuer shall not cancel or nonrenew the policy~~ (ii) for any reason other than nonpayment of premium or material misrepresentation.

~~(6)~~ (B) If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under clause ~~(E)~~; (D), the issuer shall offer certificate holders an individual Medicare supplement policy ~~which that~~, at the option of the certificate holder, **provides for:**

- (i) ~~provides for~~ continuation of the benefits contained in the group policy; or
- (ii) ~~provides for~~ such benefits as otherwise ~~meets meet~~ the requirements of this subsection.

~~(7)~~ (C) If an individual is a certificate holder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall **offer the certificate holder:**

- (i) ~~offer the certificate holder~~ the conversion opportunity described in clause ~~(E)~~; (B); or
- (ii) at the option of the group policyholder, ~~offer the certificate holder~~ continuation of coverage under the group policy.

~~(8)~~ (D) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old

group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(E) If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug Improvement and Modernization Act of 2003, the modified policy shall be deemed to satisfy the guaranteed renewal requirements of this subsection.

~~(6)~~ (5) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss ~~which that~~ commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to:

(A) the duration of the policy benefit period, if any; or

(B) payment of the maximum benefits.

Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

~~(7)~~ (6) Each Medicare supplement policy shall do the following:

(A) A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of ~~such the~~ policy or certificate within ninety (90) days after the date the individual becomes entitled to ~~such the~~ assistance.

(B) If ~~such the~~ suspension occurs and if the policyholder or certificate holder loses entitlement to ~~such the~~ medical assistance, ~~such the~~ policy or certificate shall be automatically reinstated effective as of the date of termination of ~~such the~~ entitlement ~~as of the termination of such entitlement~~ if the policyholder or certificate holder:

- (i) provides notice of loss of ~~such the~~ entitlement within ninety (90) days after the date of ~~such the~~ loss; and
- (ii) pays the premium attributable to the period. ~~effective as of the date of termination of such entitlement.~~

(C) Reinstatement of ~~such the~~ coverages **shall do all of the following:**

(i) ~~shall~~ Not provide for any waiting period with respect to treatment of preexisting conditions.

(ii) ~~shall~~ Provide for **resumption of coverage which that** is substantially equivalent to coverage in effect before the date of ~~such the~~ suspension. **If the suspended Medicare supplement policy provided coverage for outpatient prescription drugs, reinstatement of the policy for Medicare Part D enrollees shall be without coverage for outpatient prescription drugs and shall otherwise provide substantially equivalent coverage to the coverage in effect before the date of suspension.**

(iii) ~~shall~~ Provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

(c) Every issuer shall make available a policy or certificate including only the following basic core package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic core package, but not in lieu thereof. The standards for basic core benefits common to all benefit plans are as follows:

(1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period.

(2) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used.

(3) Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of **one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the ~~diagnostic related group (DRG) day outlier per diem applicable prospective payment system (PPS) rate,~~** or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days.

(4) Coverage under Medicare Parts A and B for the reasonable cost of:

(A) the first three (3) pints of blood; or

(B) equivalent quantities of packed red blood cells, as defined under federal regulations;

unless replaced in accordance with federal regulations.

(5) Coverage for the coinsurance amount of Medicare eligible expenses under Part B, regardless of hospital confinement, subject to the Medicare Part B deductible.

(d) The additional benefits shall be included in Medicare supplement benefit Plans B through J only as provided by 760 IAC 3-7. The standards for additional benefits are as follows:

(1) Medicare Part A deductible, coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(2) Skilled nursing facility care, coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

(3) Medicare Part B deductible, coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(4) Eighty percent (80%) of the Medicare Part B excess charges, coverage for eighty percent (80%) of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare

program or state law and the Medicare approved Part B charge.

(5) One hundred percent (100%) of the Medicare Part B excess charges, coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law and the Medicare approved Part B charge.

(6) Basic outpatient prescription drug benefit, coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollar (\$250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars (\$1,250) in benefits received by the insured per calendar year, to the extent not covered by Medicare. **The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006.**

(7) Extended outpatient prescription drug benefit, coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollar (\$250) calendar year deductible to a maximum of three thousand dollars (\$3,000) in benefits received by the insured per calendar year, to the extent not covered by Medicare. **The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006.**

(8) Medically necessary emergency care in a foreign country, coverage to the extent not covered by Medicare for eighty percent (80%) of the billed charges for Medicare eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care:

(A) would have been covered by Medicare if provided in the United States; and ~~which care~~

(B) began during the first sixty (60) consecutive days of each trip outside the United States;

subject to a calendar year deductible of two hundred fifty dollars (\$250) and a lifetime maximum benefit of fifty thousand dollars (\$50,000). For purposes of this benefit, "emergency care" means care needed immediately because of an injury or an illness of sudden and unexpected onset.

(9) Preventive medical care benefit, coverage for the following preventive health services **not covered by Medicare:**

(A) An annual clinical preventive medical history and physical examination that may include tests and services from clause (B) and patient education to address preventive health care measures.

(B) ~~Any one (1) or a combination of the following~~ Preventive screening tests or preventive services, the **selection and frequency of which is ~~considered~~ determined to be** medically appropriate **by the attending physician.**

(i) ~~Fecal occult blood test and/or digital rectal examination:~~

(ii) ~~Mammogram:~~

(iii) ~~Dipstick urinalysis for hematuria, bacteriuria, and proteinuria:~~

(iv) ~~Pure tone (air only) hearing screening test, administered or ordered by a physician:~~

(v) ~~Serum cholesterol screening (every five (5) years):~~

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(vi) Thyroid function test.

(vii) Diabetes screening.

(C) Influenza vaccine administered at any appropriate time during the year and tetanus and diphtheria booster (every ten (10) years).

(D) Any other tests or preventive measures determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to one hundred percent (100%) of the Medicare approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars (\$120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(10) At-home recovery benefit, coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery, including the following requirements:

(A) For purposes of this subdivision, the following definitions shall apply:

(i) "Activities of daily living" include, but are not limited to, the following:

(AA) Bathing.

(BB) Dressing.

(CC) Personal hygiene.

(DD) Transferring.

(EE) Eating.

(FF) Ambulating.

(GG) Assistance with drugs that are normally self-administered. ~~and~~

(HH) Changing bandages or other dressings.

(ii) "At-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four (24) hour period of services provided by a care provider is one (1) visit.

(iii) (iii) "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide, or nurse:

(AA) provided through a licensed home health care agency; or

(BB) referred by a licensed referral agency or licensed nurses registry.

(iii) (iv) "Home" ~~shall mean~~ means any place used by the insured as a place of residence, provided that ~~such~~ the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

(iv) "At-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four (24) hour period of services provided by a care provider is one (1) visit.

(B) Coverage requirements and limitations are as follows:

(i) At-home recovery services provided must be primarily

services ~~which that~~ assist in activities of daily living.

(ii) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(iii) Coverage is limited to the following:

(AA) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment.

(BB) The actual charges for each visit up to a maximum reimbursement of forty dollars (\$40) per visit.

(CC) One thousand six hundred dollars (\$1,600) per calendar year.

(DD) Seven (7) visits in any one (1) week.

(EE) Care furnished on a visiting basis in the insured's home.

(FF) Services provided by a care provider as defined in clause ~~(A)(ii)~~: **(A)(iii)**.

(GG) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded.

(HH) At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight (8) weeks after the service date of the last Medicare approved home health care visit.

(iv) Coverage is excluded for the following:

(AA) Home care visits paid for by Medicare or other government programs.

(BB) Care provided by family members, unpaid volunteers, or providers who are not care providers.

~~(11) An issuer may, with the prior approval of the commissioner of the department of insurance, offer a policy or certificate with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. Such new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.~~

(e) Standardized Medicare supplement benefit plan "K" shall consist of the following:

(1) Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each day used from the sixty-first day through the ninetieth day in any Medicare benefit period.

(2) Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the ninety-first day through the one hundred fiftieth day in any Medicare benefit period.

(3) Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system rate, or the appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance.

(4) Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in subdivision (10).

(5) Coverage for fifty percent (50%) of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in subdivision (10).

(6) Coverage for fifty percent (50%) of the cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in subdivision (10).

(7) Coverage for fifty percent (50%) under Medicare Part A or B of the reasonable cost of:

- (A) the first three (3) pints of blood; or
- (B) equivalent quantities of packed red blood cells, as defined under federal regulations;

unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in subdivision (10).

(8) Except for coverage provided in subdivision (9), coverage for fifty percent (50%) of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in subdivision (10).

(9) Coverage of one hundred percent (100%) of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible.

(10) Coverage for one hundred percent (100%) of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of four thousand dollars (\$4,000) in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

(f) Standardized Medicare supplement benefit plan "L" shall consist of the following:

- (1) The benefits described in subsection (e)(1) through (e)(3) and (e)(9).
- (2) The benefits described in subsection (e)(4) through (e)(8), but substituting seventy-five percent (75%) for fifty percent (50%).

(3) The benefit described in subsection (e)(10), but substituting two thousand dollars (\$2,000) for four thousand dollars (\$4,000).

(g) Notwithstanding the foregoing, insurers are permitted to continue to use approved forms through December 31, 2005. Insurers may offer any authorized plan upon approval of the commissioner. (*Department of Insurance; 760 IAC 3-6-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2566; filed Jul 18, 1996, 1:00 p.m.: 19 IR 3414; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 519*)

SECTION 9. 760 IAC 3-7-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-7-1 Standard Medicare supplement benefit plans

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1
Affected: IC 27-8-13-1

Sec. 1. (a) An issuer shall make available to each prospective policyholder and certificate holder a policy form or certificate form containing only the basic core benefits as defined in 760 IAC 3-6-1(c).

(b) No groups, packages, or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in this state, except as may be permitted in ~~760 IAC 3-6-1(d)(1)~~ and 760 IAC 3-8.

(c) Benefit plans shall be uniform in structure, language, designation, and format to the standard benefit Plans A through J listed in this section and conform to the definitions in 760 IAC 3-2 and 760 IAC 3-3. Each benefit shall:

- (1) be structured in accordance with the format provided in 760 IAC 3-6-1(c) through 760 IAC 3-6-1(d); and
- (2) list the benefits in the order shown in subsection (e).

As used in this section, "structure, language, and format" means style, arrangement, and overall content of a benefit.

(d) An issuer may use, in addition to the benefit plan designations required in subsection (c), other designations to the extent permitted by law.

(e) The makeup of benefit plans shall be as follows:

- (1) Standardized Medicare supplement benefit Plan A shall be limited to the basic (core) benefits common to all benefit plans as defined in 760 IAC 3-6-1(c).
- (2) Standardized Medicare supplement benefit Plan B shall include only the core benefit as defined in 760 IAC 3-6-1(c), plus the Medicare Part A deductible as defined in 760 IAC 3-6-1(d)(1).
- (3) Standardized Medicare supplement benefit Plan C shall include only the core benefit as defined in 760 IAC 3-6-1(c), plus:
 - (A) the Medicare Part A deductible;
 - (B) skilled nursing facility care;
 - (C) the Medicare Part B deductible; and

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(D) medically necessary emergency care in a foreign country;

as defined in 760 IAC 3-6-1(d)(1) through 760 IAC 3-6-1(d)(3) and 760 IAC 3-6-1(d)(8), respectively.

(4) Standardized Medicare supplement benefit Plan D shall include only the core benefit as defined in 760 IAC 3-6-1(c), plus:

(A) **the** Medicare Part A deductible;

(B) skilled nursing facility care;

(C) medically necessary emergency care in a foreign country; and

(D) **the** at-home recovery benefit;

as defined in 760 IAC 3-6-1(d)(1), ~~through~~ 760 IAC 3-6-1(d)(2), 760 IAC 3-6-1(d)(8), and 760 IAC 3-6-1(d)(10), respectively.

(5) Standardized Medicare supplement benefit Plan E shall include only the core benefit as defined in 760 IAC 3-6-1(c), plus:

(A) **the** Medicare Part A deductible;

(B) skilled nursing facility care;

(C) medically necessary emergency care in a foreign country; and

(D) preventive medical care;

as defined in 760 IAC 3-6-1(d)(1), ~~through~~ 760 IAC 3-6-1(d)(2), ~~and~~ 760 IAC 3-6-1(d)(8), ~~through and~~ 760 IAC 3-6-1(d)(9), respectively.

(6) Standardized Medicare supplement benefit Plan F shall include only the core benefit as defined in 760 IAC 3-6-1(c), plus:

(A) **the** Medicare Part A deductible;

(B) skilled nursing facility care;

(C) **the Medicare** Part B deductible;

(D) one hundred percent (100%) of the Medicare Part B excess charges; and

(E) medically necessary emergency care in a foreign country;

as defined in 760 IAC 3-6-1(d)(1) through 760 IAC 3-6-1(d)(3), 760 IAC 3-6-1(d)(5), and 760 IAC 3-6-1(d)(8), respectively.

(7) Standardized Medicare supplement benefit high deductible Plan F shall include one hundred percent (100%) of covered expenses following the payment of the annual high deductible Plan F deductible. The covered expenses include the core benefit as defined in 760 IAC 3-6-1(c), plus:

(A) **the** Medicare Part A deductible;

(B) skilled nursing facility care;

(C) **the Medicare** Part B deductible;

(D) one hundred percent (100%) of the Medicare Part B excess charges; and

(E) medically necessary emergency care in a foreign country;

as defined in 760 IAC 3-6-1(d)(1), ~~through~~ 760 IAC 3-6-1(d)(2), ~~and~~ 760 IAC 3-6-1(d)(8), ~~through and~~ 760 IAC 3-6-1(d)(9), respectively. The annual high deductible Plan F deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement Plan F policy and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan F

deductible shall be one thousand five hundred dollars (\$1,500) for 1999 and shall be based on the calendar year. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year and rounded to the nearest multiple of ten dollars (\$10).

(8) Standardized Medicare supplement benefit Plan G shall include only the core benefit as defined in 760 IAC 3-6-1(c), plus:

(A) **the** Medicare Part A deductible;

(B) skilled nursing facility care;

(C) eighty percent (80%) of the Medicare Part B excess charges;

(D) medically necessary emergency care in a foreign country; and

(E) **the** at-home recovery benefit;

as defined in 760 IAC 3-6-1(d)(1), ~~through~~ 760 IAC 3-6-1(d)(2), 760 IAC 3-6-1(d)(4), 760 IAC 3-6-1(d)(8), and 760 IAC 3-6-1(d)(10), respectively.

(9) Standardized Medicare supplement benefit Plan H shall consist of only the core benefit as defined in 760 IAC 3-6-1(c), plus:

(A) **the** Medicare Part A deductible;

(B) skilled nursing facility care;

(C) **the** basic prescription drug benefit; and

(D) medically necessary emergency care in a foreign country;

as defined in 760 IAC 3-6-1(d)(1), ~~through~~ 760 IAC 3-6-1(d)(2), 760 IAC 3-6-1(d)(6), and 760 IAC 3-6-1(d)(8), respectively. **The outpatient prescription drug benefit shall not be included in a Medicare Supplement policy sold after December 31, 2005.**

(10) Standardized Medicare supplement benefit Plan I shall consist of only the core benefit as defined in 760 IAC 3-6-1(c), plus:

(A) **the** Medicare Part A deductible;

(B) skilled nursing facility care;

(C) one hundred percent (100%) of the Medicare Part B excess charges;

(D) **the** basic prescription drug benefit;

(E) medically necessary emergency care in a foreign country; and

(F) **the** at-home recovery benefit;

as defined in 760 IAC 3-6-1(d)(1), ~~through~~ 760 IAC 3-6-1(d)(2), ~~760 IAC 3-6-1(d)(5)~~ ~~through~~ **760 IAC 3-6-1(d)(5)**, 760 IAC 3-6-1(d)(6), 760 IAC 3-6-1(d)(8), and 760 IAC 3-6-1(d)(10), respectively. **The outpatient prescription drug benefit shall not be included in a Medicare Supplement policy sold after December 31, 2005.**

(11) Standardized Medicare supplement benefit Plan J shall consist of only the core benefit as defined in 760 IAC 3-6-1(c), plus:

(A) **the** Medicare Part A deductible;

(B) skilled nursing facility care;

(C) **the** Medicare Part B deductible;

(D) one hundred percent (100%) of the Medicare Part B excess charges;

(E) **the** extended prescription drug benefit;

(F) medically necessary emergency care in a foreign country;

(G) preventive medical care; and

(H) **the** at-home recovery benefit;

as defined in 760 IAC 3-6-1(d)(1) through 760 IAC 3-6-1(d)(3), 760 IAC 3-6-1(d)(5), and 760 IAC 3-6-1(d)(7) through 760 IAC 3-6-1(d)(10), respectively.

(12) Standardized Medicare supplement benefit high deductible Plan J shall consist of one hundred percent (100%) of covered expenses following the payment of the annual high deductible Plan J deductible. The covered expenses include the core benefit as defined in 760 IAC 3-6-1(c), plus:

(A) **the** Medicare Part A deductible;

(B) skilled nursing facility care;

(C) **the** Medicare Part B deductible;

(D) one hundred percent (100%) of the Medicare Part B excess charges;

(E) **the** extended outpatient prescription drug benefit;

(F) medically necessary emergency care in a foreign country;

(G) preventive medical care benefit; and

(H) **the** at-home recovery benefit;

as defined in 760 IAC 3-6-1(d)(1) through 760 IAC 3-6-1(d)(3), 760 IAC 3-6-1(d)(5), and 760 IAC 3-6-1(d)(7) through 760 IAC 3-6-1(d)(10), respectively. **The outpatient prescription drug benefit shall not be included in a Medicare Supplement policy sold after December 31, 2005.** The annual high deductible Plan J deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement Plan J policy and shall be in addition to any other specific benefit deductibles. The annual high deductible shall be one thousand five hundred dollars (\$1,500) for 1999 and shall be based on a calendar year. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year and rounded to the nearest multiple of ten dollars (\$10). **The outpatient prescription drug benefit shall not be included in a Medicare Supplement policy sold after December 31, 2005.**

(f) The makeup of the two (2) Medicare supplement plans mandated by the Medicare Prescription Drug Improvement and Modernization Act of 2003 are as follows:

(1) Standardized Medicare supplement benefit plan "K" shall consist of only those benefits described in 760 IAC 3-6-1(e).

(2) Standardized Medicare supplement benefit plan "L" shall consist of only those benefits described in 760 IAC 3-6-1(f).

(g) An issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable

standards. The new or innovative benefits may include benefits that are as follows:

(1) Appropriate to Medicare supplement insurance.

(2) New or innovative.

(3) Not otherwise available.

(4) Cost-effective.

(5) Offered in a manner that is consistent with the goal of simplification of Medicare supplement policies.

After December 31, 2005, the innovative benefit shall not include an outpatient prescription drug benefit.

(h) Insurers are permitted to continue to use approved forms through December 31, 2005. Insurers may offer any authorized plan upon approval of the commissioner. *(Department of Insurance; 760 IAC 3-7-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2569; errata filed Sep 20, 1993, 5:00 p.m.: 17 IR 200; filed Feb 1, 1999, 10:45 a.m.: 22 IR 1974; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 523)*

SECTION 10. 760 IAC 3-8-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-8-1 Medicare select policies and certificates

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1

Affected: IC 27-8-13-1

Sec. 1. (a) This section shall apply to Medicare select policies and certificates as defined in this section.

(b) No policy or certificate may be advertised as a Medicare select policy or certificate unless it meets the requirements of this section.

(c) The following definitions apply throughout this section:

(1) "Complaint" means any dissatisfaction expressed by an individual concerning a Medicare select issuer or its network providers.

(2) "Grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare select policy or certificate with the:

(A) administration;

(B) claims practices; or

(C) provision of services;

concerning a Medicare select issuer or its network providers.

(3) "Medicare select issuer" means an issuer offering, or seeking to offer, a Medicare select policy or certificate.

(4) "Medicare select policy" or "Medicare select certificate" means, respectively, a Medicare supplement policy or certificate that contains restricted network provisions.

(5) "Network provider" means a provider of health care, or a group of providers of health care, **which that** has entered into a written agreement with the issuer to provide benefits insured under a Medicare select policy.

(6) "Restricted network provision" means any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

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(7) "Service area" means the geographic area approved by the commissioner of the department of insurance within which an issuer is authorized to offer a Medicare select policy.

(d) The commissioner may authorize an issuer to offer a Medicare select policy or certificate, under this section and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990, if the commissioner of the department of insurance finds that the issuer has satisfied all of the requirements of this article.

(e) A Medicare select issuer shall not issue a Medicare select policy or certificate in this state until its plan of operation has been approved by the commissioner of the department of insurance.

(f) A Medicare select issuer shall file a proposed plan of operation with the commissioner of the department of insurance in a format prescribed by the commissioner of the department of insurance. The plan of operation shall contain at least the following information:

(1) Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration of the following:

(A) ~~Such~~ **The** services can be provided by network providers with reasonable promptness with respect to **the following**:

(i) Geographic location.

(ii) Hours of operation. ~~and~~

(iii) After-hour care.

The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community.

(B) The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either **to**:

(i) ~~to~~ deliver adequately all services that are subject to a restricted network provision; or

(ii) ~~to~~ make appropriate referrals.

(C) There are written agreements with network providers describing specific responsibilities.

(D) Emergency care is available twenty-four (24) hours per day and seven (7) days per week.

(E) In the case of covered services that are:

(i) subject to a restricted network provision; and ~~are~~

(ii) provided on a prepaid basis;

there are written agreements with network providers prohibiting ~~such the~~ providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare select policy or certificate. This clause shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare select policy or certificate.

(2) A statement or map providing a clear description of the service area.

(3) A description of the **following**:

(A) **The** grievance procedure to be utilized.

~~(4) A description of~~ (B) The quality assurance program, including the following:

~~(A) (i)~~ The formal organizational structure.

~~(B) (ii)~~ The written criteria for selection, retention, and removal of network providers.

~~(C) (iii)~~ The procedures for evaluating quality of care provided by network providers. ~~and~~

(iv) The process to initiate corrective action when warranted.

~~(5) (4)~~ A list and description, by specialty, of the network providers.

~~(6) (5)~~ Copies of the written information proposed to be used by the issuer to comply with subsection (k).

~~(7) (6)~~ Any other information requested by the commissioner of the department of insurance.

(g) A Medicare select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the commissioner of the department of insurance **prior to before** implementing ~~such the~~ changes. ~~Such The~~ changes shall be considered approved by the commissioner of the department of insurance after thirty (30) days unless specifically disapproved.

(h) An updated list of network providers shall be filed with the commissioner of the department of insurance at least quarterly.

(i) A Medicare select policy or certificate shall not restrict payment for covered services provided by nonnetwork providers if:

(1) the services are:

(A) for symptoms requiring emergency care; or ~~are~~

(B) immediately required for an unforeseen:

(i) illness;

(ii) injury; or ~~a~~

(iii) condition; and

(2) it is not reasonable to obtain ~~such the~~ services through a network provider.

(j) A Medicare select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

(k) A Medicare select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare select policy or certificate to each applicant. This disclosure shall include at least the following:

(1) An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare select policy or certificate with the following:

(A) Other Medicare supplement policies or certificates offered by the issuer.

(B) Other Medicare select policies or certificates.

(2) A description, including address, phone number, and hours of operation of the network providers, including **the following**:

(A) Primary care physicians.

- (B) Specialty physicians.
- (C) Hospitals. ~~and~~
- (D) Other providers.

(3) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized. **Except to the extent specified in the policy or certificate, expenses incurred when using out of network providers do not count toward the out-of-pocket annual limit contained in plans K and L.**

(4) A description of coverage for **the following**:

- (A) Emergency and urgently needed care. ~~and~~
- (B) Other out-of-service area coverage.

(5) A description of limitations on referrals to **the following**:

- (A) Restricted network providers. ~~and to~~
- (B) Other providers.

(6) A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer.

(7) A description of the Medicare select issuer's:

- (A) quality assurance program; and
- (B) grievance procedure.

(l) ~~Prior to~~ **Before** the sale of a Medicare select policy or certificate, a Medicare select issuer shall obtain from the applicant a signed and dated form stating that the applicant:

- (1) has received the information provided under subsection (k); and ~~that the applicant~~
- (2) understands the restrictions of the Medicare select policy or certificate.

(m) A Medicare select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. ~~Such~~ **The** procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures as follows:

(1) The grievance procedure shall be described in the:

- (A) policies and certificates; and ~~in the~~
- (B) outline of coverage.

(2) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

(3) Grievances shall be:

- (A) considered in a timely manner; and ~~shall be~~
- (B) transmitted to appropriate decision makers who have authority to:
 - (i) fully investigate the issue; and
 - (ii) take corrective action.

(4) If a grievance is found to be valid, corrective action shall be taken promptly.

(5) All concerned parties shall be notified about the results of a grievance.

(6) The issuer shall report ~~no~~ **not** later than each March 31 to the commissioner of the department of insurance regarding its grievance procedure. The report shall:

(A) be in a format prescribed by the commissioner of the department of insurance; and ~~shall~~

(B) contain:

- (i) the number of grievances filed in the past year; and
- (ii) a summary of the subject, nature, and resolution of ~~such~~ **the** grievances.

(n) At the time of initial purchase, a Medicare select issuer shall make available to each applicant for a Medicare select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

(o) At the request of an individual insured under a Medicare select policy or certificate, a Medicare select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer that:

- (1) has comparable or lesser benefits; and
- (2) does not contain a restricted network provision.

The issuer shall make the policies or certificates available without requiring evidence of insurability after the Medicare select policy or certificate has been in force for six (6) months.

(p) For purposes of subsection (o), a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare select policy or certificate being replaced. As used in this subsection, "significant benefit" means coverage for:

- (1) the Medicare Part A deductible;
- ~~(2) prescription drugs;~~
- ~~(3) (2)~~ at-home recovery services; or
- ~~(4) (3)~~ **Medicare** Part B excess charges.

(q) Medicare select policies and certificates shall provide for continuation of coverage in the event the Secretary of Health and Human Services determines that Medicare select policies and certificates issued under this section should be discontinued due to either the failure of the Medicare select program to be reauthorized under law or its substantial amendment and as follows:

(1) Each Medicare select issuer shall make available to each individual insured under a Medicare select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer that:

- (A) has comparable or lesser benefits; and
- (B) does not contain a restricted network provision.

The issuer shall make ~~such~~ **the** policies and certificates available without requiring evidence of insurability.

(2) For purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare select policy or certificate being replaced. As used in this subdivision, "significant benefit" means coverage for:

- (A) the Medicare Part A deductible;

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- (B) prescription drugs;
- (C) at-home recovery services; or
- (D) Medicare Part B excess charges.

(r) A Medicare select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare select program. (*Department of Insurance; 760 IAC 3-8-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2570; filed Jul 18, 1996, 1:00 p.m.: 19 IR 3417; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 525*)

SECTION 11. 760 IAC 3-9-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-9-1 Open enrollment

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1
Affected: IC 27-8-13-1

Sec. 1. (a) No issuer shall:

- (1) deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state; ~~nor or~~
- (2) discriminate in the pricing of ~~such a the~~ policy or certificate;

because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted ~~prior to before~~ or during the six (6) month period beginning with the first day of the first month in which an individual is both ~~at least~~ sixty-five (65) years of age ~~or older~~ and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an insurer shall be made available to all applicants who qualify under this subsection without regard to age.

(b) If an applicant:

- (1) qualifies under subsection (a); ~~and~~
- (2) submits an application during the time period referenced in subsection (a); and
- (3) as of the date of application, has had a continuous period of creditable coverage of at least six (6) months;

the issuer shall not exclude benefits based on a preexisting condition.

(c) If an applicant:

- (1) qualifies under subsection (a); ~~and~~
- (2) submits an application during the time period referenced in subsection (a); and
- (3) as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months;

the issuer shall reduce the period of any preexisting condition exclusion by the sum of the period of creditable coverage applicable to the applicant as of the enrollment date.

(d) Except as provided in this section, **section 2 of this rule,**

and 760 IAC 3-19-1, subsection (a) shall not be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six (6) months before the coverage became effective. (*Department of Insurance; 760 IAC 3-9-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2573; filed Jul 18, 1996, 1:00 p.m.: 19 IR 3419; filed Feb 1, 1999, 10:45 a.m.: 22 IR 1975; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 528*)

SECTION 12. 760 IAC 3-9-2 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-9-2 Guaranteed issue for eligible persons

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1
Affected: IC 27-8-13-1

Sec. 2. (a) As used in this section, "eligible person" means an individual described in any of the following:

(1) An individual enrolled under an employee welfare benefit plan that:

(A) provides health benefits that supplement the benefits under Medicare and the plan:

(i) terminates; or ~~the plan~~

(ii) implements a material reduction of supplemental health benefits to the individual; or ~~the individual is enrolled under an employee welfare benefit plan that~~

(B) is primary to Medicare and the plan:

(i) terminates; or ~~the plan~~

(ii) ceases to provide health benefits to the individual because the individual leaves the plan.

(2) An individual enrolled with a ~~Medicare+Choice Medicare Advantage~~ organization under a ~~Medicare+Choice Medicare Advantage~~ plan and any of the following circumstances apply:

(A) The organization's or plan's certification has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.

(B) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act, where the individual has:

(i) not paid premiums on a timely basis; or ~~has~~

(ii) engaged in disruptive behavior as specified in standards under Section 1856;

or the plan is terminated for all individuals within a residence area.

(C) The individual demonstrates, in accordance with guidelines established by the Secretary, that:

(i) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide:

- (AA) an enrollee on a timely basis medically necessary care for which benefits are available under the plan; or ~~the failure to provide such~~
 - (BB) covered care in accordance with applicable quality standards; or
 - (ii) the organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual. ~~or~~
 - (D) The individual meets ~~such~~ other exceptional conditions as the Secretary may provide.
- (3) An individual enrolled in: ~~one (1) of the following:~~
- (A) an eligible organization under a contract under Section 1876 (Medicare risk or cost);
 - (B) a similar organization operating under demonstration project authority, effective for periods before April 1, 1999; ~~or~~
 - (C) an organization under:
 - (i) an agreement under Section 1833(a)(1)(A) (health care prepayment plan); or
 - ~~(D) an organization under~~ (ii) a Medicare Select policy; and the enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under ~~subsection (a)(2) of this section.~~ **subdivision (2).**
 - (4) An individual enrolled under a Medicare supplement policy and the enrollment ceases due to one (1) of the following:
 - (A) Insolvency of the issuer.
 - (B) Bankruptcy of the organization. ~~or~~
 - (C) Other involuntary termination of coverage or enrollment under the policy.
 - ~~(B)~~ (D) The issuer of the policy substantially violated a material provision of the policy. ~~or~~
 - ~~(C)~~ (E) The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual.
 - (5) An individual enrolled under a Medicare supplement policy who:
 - (A) terminates enrollment and subsequently enrolls with:
 - (i) any ~~Medicare+Choice Medicare Advantage~~ organization under ~~Medicare+Choice Medicare Advantage~~ plans;
 - (ii) any:
 - (AA) eligible organization under a contract under Section 1876 (Medicare risk or cost); or ~~any~~
 - (BB) similar organization operating under demonstration project authority;
 - (iii) an organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan); or
 - (iv) a Medicare Select policy; and
 - (B) during the first twelve (12) months after the initial termination of enrollment from the Medicare supplement policy under clause (A), the individual:
 - (i) terminates any subsequent enrollments in **any** plans or organizations described in clause ~~(A)(i); (A)(ii); (A)(iii); or (A)(iv); (A);~~ and
 - (ii) applies to enroll with a Medicare supplement policy.

- (6) An individual who, upon first enrolling in Medicare Part B:
 - (A) enrolls in any ~~Medicare+Choice Medicare Advantage~~ plans; and
 - (B) disenrolls from the plans not later than twelve (12) months after the effective date of the individual's first enrollment.
- (7) **An individual who:**
 - (A) **enrolls in a Medicare Part D plan during the initial enrollment period;**
 - (B) **at the time of enrollment in Part D, was enrolled under a Medicare supplement policy that covers outpatient prescription drugs;**
 - (C) **terminates enrollment in the Medicare supplement policy; and**
 - (D) **submits evidence of enrollment in Medicare Part D along with the application for a policy described in subsection (d).**

(b) With respect to eligible persons who apply to enroll under the policy not later than sixty-three (63) days after the date of the termination of enrollment described in subsection (a) and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy, an issuer shall not:

- (1) deny or condition the issuance or effectiveness of a Medicare supplement policy described in subsection (c) that is offered and is available for issuance to new enrollees by the issuer;
- (2) discriminate in the pricing of such a Medicare supplement policy because of:
 - (A) health status;
 - (B) claims experience;
 - (C) receipt of health care; or
 - (D) medical condition; and
- (3) impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

(c) An eligible person as defined by subsection (a)(1), (a)(2), (a)(3), or (a)(4) is guaranteed issuance of a standardized Medicare supplement benefit:

- (1) Plan A;
- (2) Plan B;
- (3) Plan C; ~~or~~
- (4) Plan F (**including Plan F with a high deductible**);
- (5) **Plan K; or**
- (6) **Plan L;**

offered by any issuer.

(d) An eligible person as defined by subsection (a)(5) is guaranteed issuance of the same standardized Medicare supplement policy in which the individual was most recently ~~previously~~ **previously** enrolled, if available from the same issuer, or, if not ~~so~~ available, a policy described in subsection (c). **After December 31, 2005, if the individual was most recently enrolled in a Medicare supplement policy with an outpatient prescription**

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drug benefit, a Medicare supplement policy referenced above is:

- (1) the policy available from the same issuer but modified to remove outpatient prescription drug coverage; or
- (2) at the election of the policyholder, a:
 - (A) Plan A;
 - (B) Plan B;
 - (C) Plan C;
 - (D) Plan F (including Plan with a high deductible);
 - (E) Plan K; or
 - (F) Plan L;policy that is offered by any issuer.

(e) In the case of an individual described in subsection (a)(7), the guaranteed issue period:

- (1) begins on the date the individual receives notice under Section 1882(v)(2)(B) of the Social Security Act from the Medicare supplement issuer during the sixty (60) day period immediately preceding the initial Part D enrollment period; and
- (2) ends on the date that is sixty-three (63) days after the effective date of the individual's coverage under Medicare Part D.

An eligible person as defined by subsection (a)(7) is guaranteed issuance of a Medicare supplement Plan A, B, C, F (including F with a high deductible), K, or L that is offered and is available for issuance to new enrollees by the same issuer that issued the individual's Medicare supplement policy with outpatient prescription drug coverage.

(f) An eligible person as defined by subsection (a)(6) is guaranteed issuance of any standardized Medicare supplement policy offered by any issuer.

(g) At the time of an event described in subsection (a), either the:

- (1) organization that terminates the contract or agreement; ~~the~~
- (2) employee welfare benefit plan; ~~the~~
- (3) issuer of the policy; ~~the~~
- (4) administrator of the plan being terminated;

shall notify the individual of his or her rights under this section.

(h) At the time of an event described in subsection (a), because of which an individual ceases enrollment under a contract or agreement, policy, or plan, either the:

- (1) organization that offers the contract or agreement; ~~the~~
- (2) issuer offering the policy; ~~the~~
- (3) administrator of the plan;

shall notify the individual of his or her rights under this section.

~~Such~~ The notice shall be communicated to the individual within ten (10) working days of the issuer receiving notification of disenrollment. (*Department of Insurance; 760 IAC 3-9-2; filed Feb 1, 1999, 10:45 a.m.: 22 IR 1976; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 528*)

SECTION 13. 760 IAC 3-11-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-11-1 Loss ratio standards and refund or credit of premium

Authority: IC 27-8-13-10; IC 27-8-13-12
Affected: IC 27-8-13-1

Sec. 1. (a) Loss ratio standards are as follows:

(1) A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form at least either of the following:

- (A) ~~at least~~ Seventy-five percent (75%) of the aggregate amount of premiums earned in the case of group policies. ~~or~~
- (B) ~~at least~~ Sixty-five percent (65%) of the aggregate amount of premiums earned in the case of individual policies, calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for ~~such~~ the period and in accordance with accepted actuarial principles and practices. **Incurred health care expenses where coverage is provided by a health maintenance organization shall not include the following:**

- (i) Home office and overhead costs.
- (ii) Advertising costs.
- (iii) Commissions and other acquisition costs.
- (iv) Taxes.
- (v) Capital costs.
- (vi) Administrative costs.
- (vii) Claims processing costs.

(2) All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

(3) For policies issued any time ~~prior to~~ before January 1, 1992, expected claims in relation to premiums shall meet the following:

- (A) The originally filed anticipated loss ratio when combined with the actual experience since inception.
- (B) The appropriate loss ratio ~~requirement~~ requirements from subdivision (1):

- (i) when combined with actual experience beginning with April 1, 1996, to date; **and**
- ~~(C) The appropriate loss ratio requirements from subdivision (1)~~ (ii) over the entire future period for which the rates are computed to provide coverage.

~~(D)~~ (C) In meeting the tests in clauses (A) through (E) and (B) and for purposes of attaining credibility, an issuer may combine experience under policy forms that provide substantially similar coverage. Once a combined form is adopted, the issuer may not separate the experience except with the approval of the commissioner.

(b) Refund or credit calculation is as follows:

(1) An issuer shall collect and file with the commissioner of the department of insurance by May 31 of each year the data contained in the applicable reporting form contained in this section for each type in a standard Medicare supplement benefit plan.

(2) If, on the basis of the experience as reported, the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(3) For purposes of this section, the issuer of policies or certificates issued ~~prior to before~~ January 1, 1992, shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after April 1, 1996. The first ~~such~~ report shall be due by May 31, 1998.

(4) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services but in no event shall it be less than the average rate of interest for 13-week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

(c) An issuer of Medicare supplement policies and certificates issued before or after the effective date of this article in this state shall file annually its rates, rating schedule, and supporting documentation, including ratios of incurred losses to earned premiums by policy duration for approval by the commissioner of the department of insurance in accordance with the filing requirements and procedures prescribed by the commissioner of the department of insurance. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. ~~Such The~~ demonstration shall exclude active life reserves. An expected third-year loss ratio, which is greater than or equal to the applicable percentage, shall be demonstrated for policies or certificates in force less than three (3) years.

(d) As soon as practicable, but ~~prior to before~~ the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the commissioner of the department of insurance, in accordance with the applicable filing procedures of this state, the following:

(1) Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. ~~Such~~ Supporting documents as necessary to justify the adjustment shall accompany the filing.

(2) An issuer shall make ~~such~~ premium adjustments as are:
 (A) necessary to produce an expected loss ratio under ~~such~~ the policy or certificate as will conform with minimum loss ratio standards for Medicare supplement policies; and ~~which are~~

(B) expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for ~~such the~~ Medicare supplement policies or certificates.

No premium adjustment, which would modify the loss ratio experience under the policy other than the adjustments described in this subdivision, shall be made with respect to a policy at any time other than upon its renewal date or anniversary date.

(3) If an issuer fails to make premium adjustments acceptable to the commissioner of the department of insurance, the commissioner of the department of insurance may order:

- (A) premium adjustments;
- (B) refunds; or
- (C) premium credits;

deemed necessary to achieve the loss ratio required by this section.

(4) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. ~~Such The~~ riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

(e) The commissioner of the department of insurance may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of this article if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for ~~such the~~ reporting period. Public notice of ~~such the~~ hearing shall be furnished in a manner deemed appropriate by the commissioner of the department of insurance.

(f) The following forms shall be used for the calculations and reporting requirements of this rule:

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MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR _____

TYPE ¹ _____	SMSBP ² _____
For the State of _____	Company Name _____
NAIC Group Code _____	NAIC Company Code _____
Address _____	Person Completing Exhibit _____
Title _____	Telephone Number _____

Line	(a) Earned Premium ³	(b) Incurred Claims ⁴
1. Current Year's Experience		
a. Total (all policy years)		
b. Current year's issues ⁵		
c. Net (for reporting purposes = 1a - 1b)	_____	_____
2. Past Years' Experience (All Policy Years)	_____	_____
3. Total Experience (Net Current Year + Past Year's Experience)	_____	_____
4. Refunds Last Year (Excluding Interest) _____		
5. Previous Since Inception (Excluding Interest) _____		
6. Refunds Since Inception (Excluding Interest) _____		
7. Benchmark Ratio Since Inception (SEE WORKSHEET FOR RATIO 1) _____		
8. Experienced Ratio Since Inception _____		

$$\frac{\text{Total Actual Incurred Claims (line 3, col. b)}}{\text{Total Earned Prem. (line 3, col. a) - Refunds Since Inception (line 6)}} = \text{Ratio 2}$$

9. Life Years Exposed Since Inception _____
 If the Experience Ratio is less than the Benchmark Ratio, and there are more than five hundred (500) life years exposure, then proceed to calculation of refund.

10. Tolerance Permitted (obtained from credibility table) _____

Medicare Supplement Credibility Table

Life Years Exposed Since Inception	Tolerance
10,000 +	0.0%
5,000-9,999	5.0%
2,500-4,999	7.5%
1,000-2,499	10.0%
500-999	15.0%
If less than 500, no credibility.	

MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR _____

TYPE ¹ _____	SMSBP ² _____
For the State of _____	Company Name _____
NAIC Group Code _____	NAIC Company Code _____
Address _____	Person Completing Exhibit _____
Title _____	Telephone Number _____

11. Adjustment to Incurred Claims for Credibility _____
 $\text{Ratio 3} = \text{Ratio 2} + \text{Tolerance}$

If Ratio 3 is more than Benchmark Ratio (Ratio 1), a refund or credit to premium is not required.

If Ratio 3 is less than the Benchmark Ratio, then proceed.

12. Adjusted Incurred Claims _____
 $[\text{Total Earned Premiums (line 3, col. a) - Refunds Since Inception (line 6)}] \times \text{Ratio 3 (line 11)}$

13. Refund = Total Earned Premiums (line 3, col. a) - Refunds Since Inception (line 6).
 $\frac{\text{Adjusted Incurred Claims (line 12)}}{\text{Benchmark Ratio (Ratio 1)}}$

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If the amount on line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund and/or credit against premiums to be used must be attached to this form.

¹Individual, group, individual Medicare Select, or group Medicare Select only.

²“SMSBP” = Standardized Medicare Supplement Benefit Plan.

³Includes Modal Loadings and Fees Charged.

⁴Excluded Active Life Reserves.

⁵This is to be used as “Issue Year Earned Premium” for Year 1 of the next year’s “Worksheet for Calculation of Benchmark Ratios”.

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

Signature

Name—Please Type

Title

Date

REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR GROUP POLICIES FOR CALENDAR YEAR _____

TYPE¹ _____
For the State of _____
NAIC Group Code _____
Address _____
Title _____

SMSBP² _____
Company Name _____
NAIC Company Code _____
Person Completing Exhibit _____
Telephone Number _____

(a) ³	(b) ⁴	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(o) ⁵
Year	Earned Premium	Factor	(b)×(c)	Cumulative Loss Ratio	(d)×(e)	Factor	(b)×(g)	Cumulative Loss Ratio	(h)×(i)	Policy Year Loss Ratio
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		2.245		0.771		0.77
5		4.175		0.567		3.170		0.782		0.80
6		4.175		0.567		3.998		0.792		0.82
7		4.175		0.567		4.754		0.802		0.84
8		4.175		0.567		5.445		0.811		0.87
9		4.175		0.567		6.075		0.818		0.88
10		4.175		0.567		6.650		0.824		0.88
11		4.175		0.567		7.176		0.828		0.88
12		4.175		0.567		7.655		0.831		0.88
13		4.175		0.567		8.093		0.834		0.89
14		4.175		0.567		8.493		0.837		0.89
15		4.175		0.567		8.684		0.838		0.89
Total:			(k):		(l):		(m):		(n):	

Benchmark Ratio Since Inception: $(l + n)/(k + m)$: _____

¹Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

²“SMSBP” = Standardized Medicare Supplement Benefit Plan - Use “P” for pre-standardized plans.

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³Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)

⁴For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

⁵These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR INDIVIDUAL POLICIES FOR CALENDAR YEAR _____

TYPE ¹ _____	SMSBP ² _____
For the State of _____	Company Name _____
NAIC Group Code _____	NAIC Company Code _____
Address _____	Person Completing Exhibit _____
Title _____	Telephone Number _____

(a) ³	(b) ⁴	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(o) ⁵
Year	Earned Premium	Factor	(b)×(c)	Cumulative Loss Ratio	(d)×(e)	Factor	(b)×(g)	Cumulative Loss Ratio	(h)×(i)	Policy Year Loss Ratio
1		2.770		0.442		0.000		0.000		0.40
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.65
4		4.175		0.493		2.245		0.669		0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77
15		4.175		0.493		8.684		0.725		0.77
Total:			(k):		(l):		(m):		(n):	

Benchmark Ratio Since Inception: $(l + n)/(k + m)$: _____

¹Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

²“SMSBP” = Standardized Medicare Supplement Benefit Plan - Use “P” for pre-standardized plans.

³Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)

⁴For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

⁵These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

(Department of Insurance; 760 IAC 3-11-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2573; filed Jul 18, 1996, 1:00 p.m.: 19 IR 3419; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 530; errata filed Oct 5, 2005; 2:25 p.m.: 29 IR 548)

SECTION 14. 760 IAC 3-12-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-12-1 Filing and approval of policies and certificates and premium rates

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1; IC 27-8-13-12
Affected: IC 27-8-13-1

Sec. 1. (a) An issuer shall not deliver or issue for delivery a

policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the commissioner of the department of insurance in accordance with filing requirements and procedures prescribed by the commissioner of the department of insurance.

(b) An issuer shall file any riders or amendments to policy or certificate forms to delete outpatient prescription drug benefits as required by the Medicare Prescription Drug,

Improvement, and Modernization Act of 2003 only with the commissioner in the state in which the policy or certificate was issued.

~~(b)~~ **(c)** An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the commissioner of the department of insurance in accordance with the filing requirements and procedures prescribed by the commissioner of the department of insurance.

~~(e)~~ **(d)** Except as provided in subsection ~~(d)~~, **(e)**, an issuer shall not file for approval more than one (1) form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

~~(d)~~ **(e)** An issuer may offer, with the approval of the commissioner of the department of insurance, up to four (4) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one (1) for each of the following cases:

- (1) The inclusion of new or innovative benefits.
- (2) The addition of either:
 - (A)** direct response or agent marketing methods; **or**
 - ~~(3)~~ **(B)** guaranteed issue or underwritten coverage.
- ~~(4)~~ **(3)** The offering of coverage to individuals eligible for Medicare by reason of disability.

~~(e)~~ **(f)** As used in this section, “type” means:

- (1) an individual policy;
- (2) a group policy;
- (3) an individual Medicare select policy; or
- (4) a group Medicare select policy.

~~(f)~~ **(g)** Except as provided in subdivision (1), an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of this article that has been approved by the commissioner of the department of insurance. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months and as follows:

- (1) An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the commissioner of the department of insurance in writing its decision at least thirty (30) days ~~prior to before~~ discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the commissioner of the department of insurance, the issuer shall no longer offer for sale the policy form or certificate form in this state.
- (2) An issuer that discontinues the availability of a policy form or certificate form under subdivision (1) shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the

issuer provides notice to the commissioner of the department of insurance of the discontinuance. The period of discontinuance may be reduced if the commissioner of the department of insurance determines that a shorter period is appropriate.

~~(g)~~ **(h)** For purposes of subsection ~~(f)~~; **(g)**, this subsection, and subsection ~~(h)~~; **(i)**, the sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance.

~~(h)~~ **(i)** A change in the rating structure or methodology shall be considered a discontinuance under subsection ~~(f)~~ **(g)** unless the issuer: ~~complies with the following requirements:~~

- (1) ~~The issuer~~ provides an actuarial memorandum, in a form and manner prescribed by the commissioner of the department of insurance, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates; **and**
- (2) ~~The issuer~~ does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner of the department of insurance may approve a change to the differential ~~which that~~ is in the public interest.

~~(j)~~ **(j)** Except as provided in subsection ~~(j)~~; **(k)**, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in 760 IAC 3-11.

~~(k)~~ **(k)** Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation. (*Department of Insurance; 760 IAC 3-12-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2580; filed Jul 18, 1996, 1:00 p.m.: 19 IR 3430; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 534*)

SECTION 15. 760 IAC 3-14-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-14-1 Required disclosure provisions

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1; IC 27-8-13-12; IC 27-8-13-14; IC 27-8-13-15; IC 27-8-13-16
Affected: IC 27-8-13-1

Sec. 1. (a) General provisions are as follows:

(1) Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of ~~such the~~ provision shall be consistent with the type of contract issued. ~~Such The~~ provision shall:

- (A)** be appropriately captioned;
- (B)** appear on the first page of the policy; and
- (C)** include any:
 - (i)** reservation by the issuer of the right to change premiums; and ~~any~~

(ii) automatic renewal premium increases based on the policyholder's age.

(2) Except for riders or endorsements by which the issuer:

(A) effectuates a request made in writing by the insured;

(B) exercises a specifically reserved right under a Medicare supplement policy; or

(C) is required to reduce or eliminate benefits to avoid duplication of Medicare benefits;

all riders or endorsements added to a Medicare supplement policy after the date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, ~~such the~~ premium charge shall be set forth in the policy.

(3) Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as:

(A) "usual and customary";

(B) "reasonable and customary"; or

(C) words of similar import.

(4) If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, ~~such the~~ limitations shall:

(A) appear as a separate paragraph of the policy; and

(B) be labeled as "Preexisting Condition Limitations".

(5) Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificate holder shall have the right to:

(A) return the policy or certificate within thirty (30) days of its delivery; and ~~to~~

(B) have the premium refunded;

if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

(6) Issuers of accident and sickness policies or certificates that provide hospital or medical expense coverage on an expense incurred or indemnity basis to a person eligible for Medicare shall provide to those applicants a Guide to Health Insurance for People with Medicare (Guide) in:

(A) the form developed jointly by the National Association of Insurance Commissioners and the ~~Health Care Financing Administration Center for Medicare Services~~; and ~~in~~

(B) a type size no smaller than 12-point type.

Delivery of the Guide shall be made whether or not ~~such the~~ policies or certificates are advertised, solicited, or issued as Medicare supplement policies or certificates as defined in this article. Except in the case of direct response issuers, delivery of the Guide shall be made to the applicant at the time of

application and acknowledgement of receipt of the Guide shall be obtained by the issuer. Direct response issuers shall deliver the Guide to the applicant upon request, but not later than at the time the policy is delivered.

As used in this section, "form" means the language, format, type size, type proportional spacing, bold character, and line spacing.

(b) Notice requirements are as follows:

(1) As soon as practicable, but ~~no~~ **not** later than thirty (30) days ~~prior to~~ **before** the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificate holders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the commissioner of the department of insurance. ~~Such The~~ notice shall do the following:

(A) Include a description of ~~the following~~:

(i) Revisions to the Medicare program. ~~and a description of~~

(ii) Each modification made to the coverage provided under the Medicare supplement policy or certificate.

(B) Inform each policyholder or certificate holder as to when any premium adjustment is to be made due to changes in Medicare.

(2) The notice of benefit modifications and any premium adjustments shall be in:

(A) outline form; and ~~in~~

(B) clear and simple terms;

so as to facilitate comprehension.

(3) ~~Such The~~ notices shall not:

(A) contain; or

(B) be accompanied by;

any solicitation.

(c) Issuers shall comply with any notice requirements of the Medicare Prescription Drug Improvement and Modernization Act of 2003.

~~(c)~~ (d) The outline of coverage requirements for Medicare supplement policies are as follows:

(1) Issuers shall:

(A) provide an outline of coverage to all applicants at the time application is presented to the prospective applicant; and

(B) except for direct response policies, ~~shall~~ obtain an acknowledgement of receipt of ~~such the~~ outline from the applicant.

(2) If:

(A) an outline of coverage is provided at the time of application; and

(B) the Medicare supplement policy or certificate is issued on a basis that would require revision of the outline;

a substitute outline of coverage properly describing the policy or certificate shall accompany ~~such the~~ policy or certificate when it is delivered and contain the following statement, in ~~no less~~ **not smaller** than 12-point type, immediately above the company name:

“NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application, and the coverage originally applied for has not been issued.”

(3) The outline of coverage provided to applicants under this section consists of the following:

- (A) The cover page described in subsection ~~(e)~~: (f).
- (B) Premium information on or immediately following the cover page.
- (C) Disclosure pages described in subsection ~~(f)~~: (g).
- (D) Charts displaying the features of each benefit plan offered by the issuer described in subsection ~~(g)~~: (h).

The outline of coverage shall be in the language and format prescribed in subsections ~~(e)~~ (f) through ~~(g)~~ (h) in **no less not smaller** than 12-point type. Plans A through J, described in 760 IAC 3-7, shall be shown on the cover page, and the plans that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

~~(d)~~ (e) The following are notices regarding policies or certificates that are not Medicare supplement policies:

- (1) Any:
 - (A) accident and sickness insurance policy or certificate, other than a Medicare supplement policy;
 - (B) policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. 1395 et seq.);
 - (C) disability income policy; or
 - (D) other policy identified in 760 IAC 3-1-1(b);

issued for delivery in this state to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy or, if no outline of coverage is delivered, to the first page of the policy or certificate delivered to insureds. The notice shall be in **no less not smaller** than 12-point type and shall contain the following language:

“THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company.”

(2) Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in subdivision (1) shall disclose, using the applicable statement in this subdivision, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as part of, or together with, the application for the policy or certificate. The following instructions and forms shall be used for the disclosure statement regarding duplication of Medicare:

DISCLOSURE STATEMENTS

Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare

1. Section 1882(d) of the federal Social Security Act, 42 U.S.C. 1395ss, prohibits the sale of a health insurance policy (the term “policy” or “policies” includes certificates) that duplicates Medicare benefits unless it will pay benefits without regard to other health coverage and it includes the prescribed disclosure statement on or together with the application.
2. All types of health insurance policies that duplicate Medicare shall include one (1) of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).
3. State and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement.
4. Property/casualty and life insurance policies are not considered health insurance.
5. Disability income policies are not considered to provide benefits that duplicate Medicare.
6. Long term care insurance policies that coordinate with Medicare and other health insurance are not considered to provide benefits that duplicate Medicare.
7. The federal law does not preempt state laws that are more stringent than the federal requirements.
8. The federal law does not preempt existing state form filing requirements.
9. Section 1882 of the federal Social Security Act was amended to allow for alternative disclosure statements. Carriers may use either the original disclosure statements or the alternative disclosure statements and not use both simultaneously.

[Original disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance
This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

- This insurance duplicates Medicare benefits when it pays:
- hospital or medical expenses up to the maximum stated in the policy
- Medicare generally pays for most or all of these expenses. Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:
- hospitalization
 - physician services

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- other approved items and services

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that reimburse expenses incurred for specified disease(s) or other specified impairment(s). This includes expense incurred cancer, specified disease, and other types of health insurance policies that limit reimbursement to named medical conditions.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one (1) of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that provide benefits for specified limited services.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in

the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any of the services covered by the policy are also covered by Medicare

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one (1) of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnoses named in the policy.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counsel-

ing program.

[Original disclosure statement for policies that provide benefits for both expenses incurred and fixed indemnity basis.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any expenses or services covered by the policy are also covered by Medicare; or
- it pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long term care policies.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductible or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any expenses or services covered by the policy are also covered by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization

- physician services
- hospice care
- other approved items and services

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for other health insurance policies not specifically identified in the previous statements.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- the benefits stated in the policy and coverage for the same event is provided by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement

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insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that provide benefits for specified limited services.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits under this policy.

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense incurred cancer, specified disease, and other types of health insurance policies that limit

reimbursement to named medical conditions.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy. Medicare generally pays for most or all of these expenses.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one (1) of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one (1) of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice

- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long term care policies.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses. Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that provide benefits upon both an expense incurred and fixed indemnity basis.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items & and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for other health insurance policies not specifically identified in the preceding statements.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE. THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

BEFORE YOU BUY THIS INSURANCE

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.

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✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(e) (f) The cover page of the outline described in subsection (e) (d) shall be in the format as follows:

(COMPANY NAME)

Outline of Medicare Supplement Coverage-Cover Page:

Benefit Plan(s) _____ (insert letter(s) of plan(s) being offered)

~~Medicare supplement insurance can be sold in only ten standard plans, plus two high deductible plans. This chart shows~~ **These charts show the benefits included in each plan: of the standard Medicare supplement plans.** Every company must make available Plan "A". Some of the other plans may not be available from every company.

Basic Benefits: ~~included in A~~ **For Plans A – J.**

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (generally 20% of Medicare approved expenses).

Blood: First three pints of blood each year.

A	B	C	D	E	F / F*	G	H	I	J / J*
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Facility	Skilled Nursing Facility	Skilled Nursing Facility	Skilled Nursing Facility	Skilled Nursing Facility	Skilled Nursing Facility	Skilled Nursing Facility	Skilled Nursing Facility
		Coinsurance	Coinsurance	Coinsurance	Coinsurance	Coinsurance	Coinsurance	Coinsurance	Coinsurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible			Part B Deductible				Part B Deductible
					Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery			At-Home Recovery		At-Home Recovery	At-Home Recovery
						Basic Drugs (\$1,250 Limit)	Basic Drugs (\$1,250 Limit)	Basic Drugs (\$3,000 Limit)	
				Preventive Care NOT covered by Medicare				Preventive Care NOT covered by Medicare	

*Plans F and J also have an option called a high deductible Plan F and a high deductible Plan J. These high deductible plans pay the same or offer the same benefits as Plans F and J after one has paid a calendar year [\$1,500] deductible. Benefits from high deductible Plans F and J will not begin until out-of-pocket expenses are [\$1,500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include ~~in Plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plans' separate~~ foreign travel emergency deductible.

Basic Benefits for Plans K and L include similar services as Plans A-J, but cost-sharing for the basic benefits is at different levels.

J	K**	L**
Basic Benefits	100% of Part A Hospitalization coinsurance plus coverage for 365 days after Medicare benefits end 50% hospice cost-sharing 50% of Medicare-eligible expenses for the first three pints of blood 50% Part B coinsurance, except 100% coinsurance for Part B Preventive Services	100% of Part A Hospitalization coinsurance plus coverage for 365 days after Medicare benefits 75% hospice cost-sharing 75% of Medicare-eligible expenses for the first three pints of blood 75% Part B coinsurance, except 100% coinsurance for Part B Preventive Services
Skilled Nursing Coinsurance	50% Skilled Nursing Facility Coinsurance	75% Skilled Nursing Facility Coinsurance
Part A Deductible	100% Part A Deductible	75% Part A Deductible
Part B Deductible		
Part B Excess (100%)		
Foreign Travel Emergency		
At-Home Recovery		
Preventive Care NOT covered by Medicare		
	[\$4000] Out-of-Pocket Annual Limit***	[\$2000] Out-of-Pocket Annual Limit***

****Plans K and L provide for different cost-sharing for items and services than Plans A-J.**

Once you reach the annual limit, the plan pays 100% of the Medicare copayments, coinsurance, and deductibles for the rest of the calendar year. The out-of-pocket annual limit does NOT include charges from your provider that exceed Medicare approved amounts, called "Excess Charges". You will be responsible for paying excess charges.

*****The out-of-pocket annual limit will increase each year for inflation.**

(g) The following items shall be included in the outline of coverage in the order prescribed:

PREMIUM INFORMATION [Boldface Type]

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this state. [If the premium is based on the increasing age of the insured, include information specifying when the premiums will change.]

DISCLOSURES [Boldface Type]

Use this outline to compare benefits and premiums among policies.

READ YOUR POLICY VERY CAREFULLY [Boldface Type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY [Boldface Type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT [Boldface Type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE [Boldface Type]

The policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security office or consult "The Medicare Handbook" for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

(g) (h) The NAIC Model Laws, Regulations and Guidelines, Vol. IV, pages ~~651-40~~ **651-54** through ~~651-67~~, **651-87**. Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act (~~April 1998~~) (**September 2004**) are hereby incorporated by reference as if fully set out herein as the format for the charts described in subsection (e); except that on page 651-59, the Part B excess charges benefits for Plan "H" medical expenses is changed from eighty percent (80%) to zero (0) in the "Plan Pays" column: (d). (*Department of Insurance; 760 IAC 3-14-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2581; errata filed Sep 20, 1993, 5:00 p.m.: 17 IR 200; filed Jul 18, 1996, 1:00 p.m.: 19 IR 3431; errata filed Sep 24, 1996, 10:30 a.m.: 20 IR 332; filed Feb 1, 1999,*

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10:45 a.m.: 22 IR 1978; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 535)

SECTION 16. 760 IAC 3-15-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-15-1 Application forms and replacement coverage

Authority: IC 27-8-13-10; IC 27-8-13-16

Affected: IC 27-8-13-1

Sec. 1. (a) Application forms shall include statements and questions as established in this subsection designed to elicit information as to whether, as of the date of the application, the applicant **currently** has another Medicare supplement, **Medicare Advantage, or Medicaid coverage** or **other another** health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing questions and statements may be used, such as the following:

(1) The following statements:

(A) You do not need more than one (1) Medicare supplement policy.

(B) If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(C) You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

(D) **If, after purchasing this policy, you become eligible for Medicaid**, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for twenty-four (24) months. You must request this suspension within ninety (90) days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your **suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy)** will be reinstated if requested within ninety (90) days of losing Medicaid eligibility. **If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstated policy will not have outpatient prescription drug coverage but will otherwise be substantially equivalent to your coverage before the date of the suspension.**

(E) If you are eligible for and have enrolled in a Medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you suspend your Medicare supplement policy under these circumstances and later lose your employer or union-

based group health plan, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstated if requested within ninety (90) days of losing your employer or union-based group health plan. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstated policy will not have outpatient prescription drug coverage but will otherwise be substantially equivalent to your coverage before the date of the suspension.

~~(E)~~ (F) Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary (SLMB).

(2) ~~The following~~ **If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a Medicare supplement insurance policy, or that you had certain rights to buy such a policy, you may be guaranteed acceptance in one (1) or more of our Medicare supplement plans. Please include a copy of the notice from your prior insurer with your application. Please answer all questions:**

~~(A)~~ To the best of your knowledge,

~~(i)~~ Do you have another Medicare supplement policy or certificate in force?

~~(AA)~~ If so, with which company?

~~(BB)~~ If so, do you intend to replace your current Medicare supplement policy with this policy [certificate].

~~(ii)~~ Do you have any other health insurance coverage that provides benefits similar to this Medicare supplement policy?

~~(AA)~~ If so, with which company?

~~(BB)~~ What kind of policy?

~~(iii)~~ Are you covered for medical assistance through the state Medicaid program:

~~(AA)~~ As a Specified Low-Income Medicare Beneficiary (SLMB)?

~~(BB)~~ As a Qualified Medicare Beneficiary (QMB)?

~~(CC)~~ For other Medicaid medical benefits?

(A) Did you turn age sixty-five (65) in the last six (6) months?

Yes _____ No _____

(B) Did you enroll in Medicare Part B in the last six (6) months?

Yes _____ No _____

(C) If yes, what is the effective date? _____

(D) Are you covered for medical assistance through the state Medicaid program?

[NOTE TO APPLICANT: If you are participating in a "Spend-Down Program" and have not met your "Share of Cost," please answer NO to this question.]

Yes _____ No _____

(i) If yes, will Medicaid pay your premiums for this Medicare supplement policy?

Yes _____ No _____

(ii) Do you receive any benefits from Medicaid OTHER THAN payments toward your Medicare Part B premium?

Yes _____ No _____

(E) If you had coverage from any Medicare plan other than original Medicare within the past sixty-three (63) days (for example, a Medicare Advantage plan, or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

Start ___/___/___ END ___/___/___

(F) If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement policy?

Yes _____ No _____

(G) Was this your first time in this type of Medicare plan?

Yes _____ No _____

(H) Did you drop a Medicare supplement policy to enroll in the Medicare plan?

Yes _____ No _____

(I) Do you have another Medicare supplement policy in force?

Yes _____ No _____

(i) If so, with what company, and what plan do you have [optional for Direct Mailers]?

(ii) If so, do you intend to replace your current Medicare supplement policy with this policy?

Yes _____ No _____

(J) Have you had coverage under any other health insurance within the past sixty-three (63) days? (For example, an employer, union, or individual plan)

Yes _____ No _____

(i) If so, with what company and what kind of policy?

(ii) What are your dates of coverage under the other policy?

START ___/___/___ END ___/___/___

If you are still covered under the other policy, leave "END" blank.

(b) Agents shall list any other health insurance policies they have sold to the applicant. List policies sold **that**:

- (1) ~~that~~ are still in force; and
- (2) in the past five (5) years, ~~that~~ are no longer in force.

(c) In the case of a direct response issuer, a copy of the application or supplemental form:

- (1) signed by the applicant; and
- (2) acknowledged by the insurer;

shall be returned to the applicant by the insurer upon delivery of the policy.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer or its agent, shall furnish the applicant, **prior to before** issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One (1) copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

(e) The notice required by subsection (d) for an issuer shall be provided in substantially the following form in **no less not smaller** than 12-point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF MEDICARE SUPPLEMENT INSURANCE OR
MEDICARE ADVANTAGE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT
TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement **or Medicare Advantage** insurance and replace it with a policy to be issued by [Company Name] Insurance Company. Your new policy will provide thirty (30) days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement **or Medicare Advantage** coverage. You should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, AGENT
[BROKER OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement coverage **or, if applicable, Medicare Advantage** because you intend to terminate your existing Medicare supplemental coverage **or leave your Medicare Advantage plan**. The replacement policy is being purchased for the following reasons (check one):

- _____ Additional benefits.
- _____ No change in benefits, but lower premiums.
- _____ Fewer benefits and lower premiums.
- _____ **My plan has outpatient prescription drug coverage and I am enrolling in Part D.**
- _____ **Disenrollment from a Medicare Advantage plan. Please explain the reason for disenrollment [optional only for Direct Mailers]** _____

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____ Other (please specify).

(1) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) to the extent such time was spent (depleted) under the original policy.

(2) If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. (If the policy or certificate is guaranteed issue, this paragraph need not appear.)

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

(Signature of Agent, Broker or Other Representative)*

[Typed Name and Address of Issuer, Agent or Broker]

(Applicant's Signature)

(Date)

*Signature not required for direct response sales.

(f) Subsection (e)(1) and (e)(2) of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation. (*Department of Insurance; 760 IAC 3-15-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2615; filed Jul 18, 1996, 1:00 p.m.: 19 IR 3464; errata filed Sep 24, 1996, 10:30 a.m.: 20 IR 332; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 544*)

SECTION 17. 760 IAC 3-18-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 3-18-1 Appropriateness of recommended purchase and excessive insurance; reporting of multiple policies

Authority: IC 27-8-13-9; IC 27-8-13-10; IC 27-8-13-10.1; IC 27-8-13-12
Affected: IC 27-8-13

Sec. 1. (a) In recommending the purchase or replacement of any Medicare supplement policy or certificate, an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(b) Any sale of a Medicare supplement ~~coverage~~ **policy or certificate** that will provide an individual more than one (1) Medicare supplement policy or certificate is prohibited, except that an agent may sell a replacement policy or certificate in

accordance with ~~760 IAC 3-1-15~~ **760 IAC 3-15-1** provided that the replacement policy or certificate is not made effective any sooner than is necessary to provide continuous benefits for preexisting conditions.

(c) An issuer shall not issue a Medicare supplement policy or certificate to an individual enrolled in Medicare Part C unless the effective date of the coverage is after the termination date of the individual's Part C coverage.

~~(e)~~ **(d)** An insurer ~~which that~~ issues a Medicare supplement policy or certificate to any individual who has one (1) policy or certificate then in effect, except as permitted by subsection (b), shall, at the request of the insured, either:

- (1)** refund the premiums; or
- (2)** pay any claims on the policy or certificate;

whichever is greater.

~~(d)~~ ~~On or~~ **(e)** Before March ~~1~~ **2** of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one (1) Medicare supplement policy or certificate:

- (1)** ~~The~~ **The** policy and certificate number.
- (2)** ~~The~~ **The** date of issuance.

~~(e)~~ **(f)** The items set forth in subsection ~~(d)~~ **(e)** must be grouped by individual policyholder.

~~(f)~~ **(g)** The form for reporting the information required by subsection ~~(d)~~ **(e)** is as follows:

**FORM FOR REPORTING
 MEDICARE SUPPLEMENT MULTIPLE POLICIES**

Company Name: _____
 Address: _____

 Phone Number: _____

Due March 1, annually

The purpose of this form is to report the following information on each resident of this state who has in force more than one (1) Medicare supplement policy or certificate. The information is to be grouped by individual policyholder.

Policy and Certificate #	Date of Issuance

Signature

Name and Title (please type)

Date

(*Department of Insurance; 760 IAC 3-18-1; filed Jul 8, 1993, 10:00 a.m.: 16 IR 2617; errata filed Sep 20, 1993, 5:00 p.m.: 17 IR 200; filed Feb 1, 1999, 10:45 a.m.: 22 IR 1987;*)

readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 531; filed Sep 14, 2005, 3:00 p.m.: 29 IR 546; errata filed Oct 5, 2005, 2:25 p.m.: 29 IR 548)

*LSA Document #05-5(F)
 Notice of Intent Published: February 1, 2005; 28 IR 1499
 Proposed Rule Published: July 1, 2005; 28 IR 3013; and May 1, 2005; 28 IR 2425
 Hearing Held: July 22, 2005
 Approved by Attorney General: September 8, 2005
 Approved by Governor: September 14, 2005
 Filed with Secretary of State: September 14, 2005, 3:00 p.m.
 IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher*

TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #05-26(F)

DIGEST

Adds 760 IAC 1-71 regarding the costs that can be charged for providing copies of medical records. *NOTE: LSA Document #05-26, printed at 28 IR 2456, was resubmitted for publication and reprinted at 28 IR 3043. Effective 30 days after filing with the Secretary of State.*

760 IAC 1-71

SECTION 1. 760 IAC 1-71 IS ADDED TO READ AS FOLLOWS:

Rule 71. Copies of Medical Records

760 IAC 1-71-1 Applicability and scope

*Authority: IC 16-39-9-4
 Affected: IC 16-39*

Sec. 1. This rule applies to all providers and medical records companies. *(Department of Insurance; 760 IAC 1-71-1; filed Sep 14, 2005, 2:45 p.m.: 29 IR 547)*

760 IAC 1-71-2 Definitions

*Authority: IC 16-39-9-4
 Affected: IC 16-18-2-295; IC 16-39*

Sec. 2. The following definitions apply throughout this rule:

- (1) "Medical records company" means a company that contracts with providers to make copies of patient medical records.**
- (2) "Provider" has the meaning set forth in IC 16-18-2-295.**

(Department of Insurance; 760 IAC 1-71-2; filed Sep 14, 2005, 2:45 p.m.: 29 IR 547)

760 IAC 1-71-3 General requirements

*Authority: IC 16-39-9-4
 Affected: IC 16-39*

Sec. 3. (a) A provider or medical records company that receives a request for a copy of a patient's medical record shall charge not more than the following:

- (1) One dollar (\$1) per page for the first ten (10) pages.**
- (2) Fifty cents (\$.50) per page for pages eleven (11) through fifty (50).**
- (3) Twenty-five cents (\$.25) per page for pages fifty-one (51) and higher.**

(b) The provider or the medical records company may collect a labor fee not to exceed twenty dollars (\$20). If the provider or medical records company collects a labor fee, the provider or medical records company may not charge for making and providing copies of the first ten (10) pages of a medical record.

(c) The provider or medical records company may charge the actual costs of mailing the medical record.

(d) The provider or the medical records company may collect an additional ten dollars (\$10) if the request is for copies to be provided within two (2) working days.

(e) The provider or medical records company may collect a charge not to exceed twenty dollars (\$20) for certifying a patient's medical record. *(Department of Insurance; 760 IAC 1-71-3; filed Sep 14, 2005, 2:45 p.m.: 29 IR 547)*

760 IAC 1-71-4 Waiver of charges

*Authority: IC 16-39-9-4
 Affected: IC 16-39*

Sec. 4. A provider or a medical records company shall consider waiving or reducing the charges for copies of a patient's medical record under the following situations:

- (1) A request from a provider:**
 - (A) to whom the patient was referred for treatment; or**
 - (B) from whom the patient is seeking a second opinion.**
- (2) The patient requested the records for his or her own use, and the charges will cause an undue financial hardship upon the patient.**

(Department of Insurance; 760 IAC 1-71-4; filed Sep 14, 2005, 2:45 p.m.: 29 IR 547)

LSA Document #05-26(F)

*Notice of Intent Published: March 1, 2005; 28 IR 1713
 Proposed Rule Published: July 1, 2005; 28 IR 3043
 Hearing Held: July 22, 2005
 Approved by Attorney General: September 8, 2005
 Approved by Governor: September 14, 2005
 Filed with Secretary of State: September 14, 2005, 2:45 p.m.
 IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher*

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #02-335(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #02-335(F), printed at 28 IR 3454:

- (1) In 326 IAC 6.5-6-23, on page 29 of the original document (28 IR 3478), in the fourth column, after "Boiler 14", delete "0" and insert "* .082".
- (2) In 326 IAC 6.5-6-23, on page 29 of the original document (28 IR 3478), in the fourth column, after "Boiler 15 (coal)", delete "0" and insert "* .106".
- (3) In 326 IAC 6.5-6-23, on page 30 of the original document (28 IR 3478), in the fourth column, after "Boiler 16 (coal)", delete "0" and insert "* .106".
- (4) In 326 IAC 6.5-6-23, on page 30 of the original document (28 IR 3478), in the fourth column, after "Boiler 17 (oil)", delete "0" and insert "* .015".

Filed with Secretary of State: September 14, 2005, 1:50 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #04-228(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #04-228(F), printed at 28 IR 2968:

- (1) In 327 IAC 17-2-2(b)(3)(B), on page 10 of the original document (28 IR 2973), delete "to".
- (2) In 327 IAC 17-2-2(b)(10), on page 14 of the original document (28 IR 2975), after "adjacent to all waterbodies, streams," delete "etc." and insert "et cetera".
- (3) In 327 IAC 17-2-2(b)(10), on page 14 of the original document (28 IR 2975), after "new dikes, roads, water control structures," delete "etc." and insert "et cetera".
- (4) In 327 IAC 17-2-2(b)(11)(B)(vi), on page 15 of the original document (28 IR 2976), after "Berms, dikes, dams," insert "and".
- (5) In 327 IAC 17-2-4(14), on page 17 of the original document (28 IR 2977), after "and opportunity for public comment," insert "Critical resource waters affect permitting as follows:".
- (6) In 327 IAC 17-2-4(14)(A), on page 17 of the original document (28 IR 2977), after "Except as noted", delete "below" and insert "in clause (B)".
- (7) In 327 IAC 17-4-10(a), on page 23 of the original document (28 IR 2980), delete "Except as provided in subsection (f) [sic].".

Filed with Secretary of State: October 11, 2005, 12:00 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #05-5(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #05-5(F), printed at 29 IR 517:

- (1) In 760 IAC 3-11-1(f), on page 21 of the original document (29 IR 532), after paragraph "8", delete "FUNC {Total~ Actual~ Incurred~ Claims~ (\line~ 3,~ col.~b)} OVER FUNC {Total~ Earned~ Prem.~ (\line~ 3,~ col.~a) ~ ~ Refunds~ Since~ Inception~ (\line~ 6)} FUNC ~ = ~FUNC Ratio~ 2" and insert:

"Total Actual Incurred Claims (line 3, col. b)

Total Earned Prem. (line 3, col. a) - Refunds = Ratio 2
Since Inception (line 6)".

- (2) In 760 IAC 3-11-1(f), on page 23 of the original document (29 IR 534), in the footnote 3 after the last table after "Year 1 is" insert "1990; Year 2 is 1989, etc.)".

- (3) In 760 IAC 3-11-1(f), on page 23 of the original document (29 IR 534), in the footnote 5 after the last table after "which" delete "res" and insert "result in the cumulative loss ratios".

- (4) In 760 IAC 3-18 [sic., 760 IAC 3-18-1], on page 41 of the original document (29 IR 546), at the top of the page there is duplicative text, delete "accordance with ~~760 IAC 3-1-15~~ **760 IAC 3-15-1** provided that the replacement policy or certificate is not made effective any sooner than is necessary to provide continuous benefits for preexisting conditions.

(c) An issuer shall not issue a Medicare supplement policy or certificate to an individual enrolled in Medicare Part C unless the effective date of the coverage is after the termination date of the individual's Part C coverage.

(e) (d) An insurer ~~which~~ ~~that~~ issues a Medicare supplement policy or certificate to any individual who has one (1) policy or certificate then in effect, except as permitted by subsection (b), shall, at the request of the insured, either:

- (1) refund the premiums; or
- (2) pay any claims on the policy or certificate; whichever is greater.

(d) On or (e) Before March 1 2 of each year, an issuer shall report the following information for every individual resident of".

Filed with Secretary of State: October 5, 2005, 2:25 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

NOTE: This change was incorporated into the printed version of LSA Document #05-5(F) and may be found at 29 IR 517, as corrected.

**TITLE 844 MEDICAL LICENSING BOARD OF
INDIANA**

LSA Document #05-91

Under IC 4-22-2-40, LSA Document #05-91, printed at 28 IR
3344, is recalled.

Emergency Rules

TITLE 31 STATE PERSONNEL DEPARTMENT

LSA Document #05-289(E)

DIGEST

Provides that employees of the Legislative Department and the Indiana Supreme Court and its agencies may convert a portion of accrued but unused vacation and sick leave into the deferred compensation plan. Statutory authority: Public Law 220-2005, SECTION 10. Affected: IC 5-10-1.1. Pursuant to an Order, dated September 29, 2005, the Indiana Supreme Court authorized the State Personnel Department to include its employees in this emergency rule. Effective October 6, 2005.

SECTION 1. Conversion of Accrued Leave into Deferred Compensation. Definitions. (a) As used in this rule [document], “legislative staff” means the following:

- (1) All employees of the legislative services agency.
- (2) All employees of the Indiana senate and the Indiana house of representatives.

(b) As used in this rule [document], “supreme court employees” means:

- (1) All employees of each justice.
- (2) All employees of the supreme court as a whole.
- (3) All employees of the supreme court library.
- (4) All employees of the divisions of supreme court and state court administration.
- (5) All employees of the board of law examiners.
- (6) All employees of the disciplinary commissions.
- (7) All employees of the commission for continuing legal education.
- (8) All employees of the judicial center.
- (9) All employees of the Judges and Lawyers Assistance Program.

SECTION 2. Applicability. (a) This rule [document] applies to legislative staff and supreme court employees.

(b) Employees on long term disability are not eligible to convert leave into the Indiana deferred compensation matching plan.

SECTION 3. Conversion. An employee eligible to convert accrued vacation and/or sick leave will elect each year whether he or she will participate in the leave conversion. Such election shall be made in writing during open enrollment each year and be submitted to a designated payroll official. After December 31 of each year, the state will reduce an employee’s accrued leave balance and deposit into the employee’s regular account in the Indiana deferred compensation matching plan the amount the employee voluntarily elects to convert, based on the employee’s accrued leave balance as of the immediately preceding December 31, and subject to the limitations in SECTION 6 [of this document]. Each year, the Indiana supreme court

shall transmit on December 31 to the appropriate official the leave balances for each eligible supreme court employee and shall update such balances as requested by the appropriate official.

SECTION 4. Vesting. Deposits in the Indiana deferred compensation matching plan are fully and immediately vested.

SECTION 5. Leave Valuation. For purposes of conversion, the value of sick and vacation leave is determined as follows:
STEP ONE: Divide the employee’s regular biweekly salary, as of the conversion date, by seventy-five (75) or seventy (70) in the case of the Indiana senate staff.
STEP TWO: Multiply the quotient determined in STEP ONE by the number of hours to be converted.
STEP THREE: Multiply the product of STEP TWO by sixty percent (60%).

SECTION 6. Conversion. (a) The following amount of leave may be converted annually under SECTION 3 [of this document]:

Vacation Leave Balance (in hours)	Hours Converted
≥ 300 < 375 vacation	45
≥ 375 < 525 vacation	90
≥ 525 < 750 vacation	150
≥ 750 vacation	240
Sick Leave Balance (in hours)	Hours Converted
≥ 300 < 375 sick	45
≥ 375 < 525 sick	90
≥ 525 < 750 sick	150
≥ 750 sick	240

(b) In no event may an employee ever convert more than his or her leave balance outstanding as of the date of the conversion.

(c) Personal leave, special sick leave, and compensatory time off are not eligible for conversion.

SECTION 7. Limitation. This rule [document] does not create any additional rights to compensation for accrued but unused leave beyond those rights expressly granted herein.

SECTION 8. Restrictions. The provisions of this rule [document] are subject to any restrictions imposed by the Internal Revenue Service on the plan adopted for this purpose by the Indiana deferred compensation committee.

LSA Document #05-289(E)

Filed with Secretary of State: October 6, 2005, 12:00 p.m.

TITLE 45 DEPARTMENT OF STATE REVENUE

LSA Document #05-273(E)

DIGEST

Temporarily adds provisions to explain and implement the Tax Amnesty Program as contained in HEA 1004-2005. Repeals LSA Document #05-188(E), printed at 28 IR 3585. Authority: HEA 1004-2005, SECTION 4. Effective September 9, 2005.

SECTION 1. (a) The definitions in this SECTION apply throughout this document.

(b) "Amnesty period" means the period of September 15, 2005, through November 15, 2005, when a taxpayer can elect to take advantage of the provisions contained in IC 6-8.1-3-17.

(c) "Department" means the department of state revenue.

(d) "Due and payable" means:

(1) the department has issued an assessment of the listed tax and demand for payment under IC 6-8.1-5-3;

(2) the department has issued a demand notice for payment of the listed tax under IC 6-8.1-8-2;

(3) the taxpayer has filed a return or an amended return in which the taxpayer has reported a liability for the listed tax; or

(4) the taxpayer has filed a written statement of liability in the form of an original return for the tax period and has filed an amnesty agreement with the department for the listed tax.

(e) "Listed taxes" means the taxes and fees described in IC 6-8.1-1-1 as in effect on May 12, 2005.

(f) "Taxpayer" means an individual, corporation, trust, estate, financial institution, insurance company, or a partner, shareholder, or member of a pass through entity.

(g) For purposes of liabilities assessed against an individual officer or employee under IC 6-2.5-9-3, IC 6-3-4-8, or IC 6-6-2.5-38, "taxpayer" shall collectively refer to all such individuals who have been assessed as well as the entity that is responsible for collection and remittance of such taxes.

(h) For purposes of liabilities under IC 6-3-4-8.1, IC 6-3-4-8.2, IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15, "taxpayer" shall also refer to the entity responsible for withholding and remitting the taxes.

(i) For purposes of IC 6-3-4-8.5, "taxpayer" shall collectively refer to the entity that incurred the initial tax liability and the transferee of property subject to tax under IC 6-3-4-8.5.

(j) "Tax period" means a reporting period ending on or before June 30, 2004.

SECTION 2. The inheritance tax, estate tax, and generation skipping tax are not subject to the provisions of the amnesty program.

SECTION 3. (a) The department shall establish an amnesty program that applies to unpaid tax liabilities for listed taxes that are due and payable for a tax period ending before July 1, 2004.

(b) Individuals with unpaid individual income tax liabilities are eligible for amnesty if the liability is for a taxable year ending on or before June 30, 2004. This applies to liabilities that are outstanding and due for resident individuals, partial year residents, and nonresidents.

(c) Taxpayers who are liable for sales and withholding taxes for tax periods ending on or before June 30, 2004, are eligible for amnesty on those outstanding liabilities.

(d) Corporations with unpaid tax liabilities are eligible for amnesty if the liability is for a tax period ending on or before June 30, 2004.

(e) Taxpayers that filed a tax return for an amnesty eligible tax period, but underreported the tax liability that was actually due, may participate in the amnesty program by completing an amnesty agreement, filing an amended return for the tax period, and paying the base tax that is due.

(f) Taxpayers that have not filed a tax return, or paid taxes for an amnesty eligible tax period, and have not been assessed by the department may participate in the amnesty program by completing an amnesty agreement, filing the original tax return for the tax period, and paying the base tax that is due.

SECTION 4. (a) The amnesty period is from September 15, 2005, up to and including November 15, 2005.

(b) No extensions of payments are permitted unless the taxpayer has established a payment plan with the department under SECTION 10 of this document.

(c) A payment received by the department before September 15, 2005, for an amnesty eligible tax period is not eligible for the abatement of penalties, interest, and costs, and fees under SECTION 7 of this document.

SECTION 5. (a) Except as provided in SECTION 6 of this document, a taxpayer with an eligible outstanding tax liability that is due and payable to the department for an eligible tax period is eligible to participate in the amnesty program.

(b) A taxpayer that properly protests a liability in accordance with IC 6-8.1-5-1 is eligible to participate in the amnesty program.

Emergency Rules

(c) A taxpayer that has a departmental hold on a tax liability payment resulting from an audit, bankruptcy, taxpayer advocate action, criminal investigation, or criminal prosecution is eligible to participate in the amnesty program.

(d) A taxpayer that negotiated a payment plan on or prior to May 12, 2005, with the department, a sheriff, collection attorney, or collection agency is eligible to participate in the amnesty program.

SECTION 6. A tax liability incurred because of a taxpayer's failure to add back the riverboat wagering tax to federal adjusted gross income or federal taxable income of the taxpayer is not eligible for the amnesty program. This includes the entity's distributive income passed through to its partners, shareholders, or other members of a pass through entity. The exclusion includes any income taxes attributable to the addback for which a pass through entity is responsible for withholding on behalf of nonresident shareholders or partners.

SECTION 7. (a) A taxpayer that elects to voluntarily take advantage of the amnesty program in a timely manner and complies with all requirements of the department concerning the amnesty program has the assurance that:

- (1) the department shall abate and not seek to collect any applicable interest, penalties, collection fees, or costs related to those tax liabilities that are paid under amnesty;
- (2) the department shall release any liens that are imposed after the full amount of the applicable tax liability is paid;
- (3) the department shall not seek civil or criminal prosecution against any individual or entity that participates in the amnesty program. The provision not to seek any civil or criminal prosecution only applies to tax liabilities that are included in the amnesty program; and
- (4) the department shall not issue or if issued shall withdraw an assessment, a demand notice, or a warrant for payment for liabilities paid under the amnesty program.

(b) A taxpayer that has an outstanding tax liability for taxes related to the International Fuel Tax Agreement (IFTA) that participates in the amnesty program will have penalty and interest abated for the Indiana portion of penalty and interest assessed. The IFTA prohibits Indiana from eliminating another state's penalty and interest assessment.

SECTION 8. (a) A taxpayer that participates in the amnesty program is not eligible to participate in any future amnesty program.

(b) The provision contained in subsection (a) does not apply to an amnesty agreement entered into under Section 402 of the Streamlined Sales and Use Tax Agreement.

SECTION 9. (a) A taxpayer that fails to pay the department the full amount of base tax for a listed tax that is due and payable for a tax period shall have the amnesty agreement voided and will be subject to all penalties, including the additional penalty provided in SECTION 11 of this document, and interest and costs related to the listed tax for the tax period that would be incurred if the taxpayer had not participated in the amnesty program.

(b) Any liability that is not eligible for the amnesty program will not be subject to the additional penalty provided in SECTION 11 of this document.

SECTION 10. (a) A taxpayer that enters into an amnesty payment plan shall comply with a written agreement stating the requirements of the payment plan.

(b) An amnesty payment plan agreement that is entered into by the taxpayer and the department shall require that the full amount of base tax due as established in the agreement must be remitted by June 15, 2006.

(c) An amnesty payment plan shall not be established for a taxpayer if the amount of base tax due is less than five hundred dollars (\$500).

(d) If the amnesty payment plan agreement is entered into on or before September 30, 2005, the taxpayer is required to pay twenty percent (20%) of the base tax due at the time of signing the agreement and ten percent (10%) of the base tax on the fifteenth of each month beginning on November 15, 2005, until the balance is paid in full.

(e) If the amnesty payment plan agreement is entered into after September 30, 2005, and on or before November 15, 2005, the taxpayer is required to pay thirty percent (30%) of the base tax due at the time of signing the agreement and ten percent (10%) of the base tax on the fifteenth of each month beginning on December 15, 2005, until the balance is paid in full.

(f) A taxpayer may pay more than the minimum monthly payment provided in the amnesty payment plan agreement.

(g) Payments received that are less than the minimum monthly payment amount provided in the payment plan agreement shall result in default of the amnesty agreement.

SECTION 11. (a) A taxpayer that fails to participate in the amnesty program or does not pay the entire base tax liability for a tax period that is due and payable for a tax period ending before July 1, 2004, shall be assessed a penalty that is double the amount of the penalty originally assessed.

(b) The penalty that is originally assessed is equal to ten percent (10%) of:

- (1) the full amount of tax due if the taxpayer fails to file a return;
- (2) the amount of tax not paid if the taxpayer fails to pay the full amount of tax shown on the taxpayer's return;
- (3) the amount of tax held in trust that is not timely remitted;
- (4) the amount of deficiency as finally determined by the department; or
- (5) the amount of tax due if the taxpayer fails to remit a payment by electronic funds transfer.

(c) The penalty that is originally assessed is equal to twenty percent (20%) if the taxpayer fails to withhold tax for nonresident shareholders that are shareholders in an S Corporation.

(d) The penalty that is originally assessed on a return that shows no tax liability for a taxable year is ten dollars (\$10) per day for each day that the return is past due up to a maximum of two hundred fifty dollars (\$250).

(e) The penalty that is originally assessed on a return prepared by the department based on best information available is twenty percent (20%) of the unpaid tax.

(f) The penalty that is originally assessed for failure to file a return or failure to make full payment with the fraudulent intent of evading the tax is one hundred percent (100%).

(g) The penalty that is originally assessed for a check where the department is unable to obtain payment on the check when the check is presented for payment through normal banking channels is one hundred percent (100%) of the face value of the check if the taxpayer fails to make the payment by check, certified check, or other guaranteed payment within ten (10) days of being notified by the department that the check has been dishonored.

(h) The penalty that is originally assessed for failure to file an information return (Schedule K-1 of Form IT-20S, IT-41, or IT-65) is ten dollars (\$10) for each failure to file a timely return up to a maximum of twenty-five thousand dollars (\$25,000). The term information return does not include form IT-20FIT, IT-20S, IT-20SC, IT-41, or IT-65.

(i) The penalty that is originally assessed on a corporate officer for violations concerning the dissolution of a corporation is thirty percent (30%) of the unpaid tax for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.

(j) The penalty that is originally assessed for selling gasoline in Indiana with the intent to avoid payment of the gasoline tax is fifty percent (50%) of the tax that has not been paid to the department.

(k) The penalty that is originally assessed for failure to

remit the special fuel tax is one hundred percent (100%) of the uncollected tax.

SECTION 12. The provision for doubling the penalty as contained in SECTION 11 of this document does not apply if all of the following conditions are present:

- (1) The department imposes a penalty on a taxpayer or otherwise calculates the penalty under the provisions described in SECTION 11 of this document.
- (2) The taxpayer against whom the penalty is imposed:
 - (A) timely files an original tax appeal in the tax court; and
 - (B) contests the department's imposition of the penalty or the tax on which the penalty is based.
- (3) The taxpayer meets all other jurisdictional requirements to initiate the original tax appeal.
- (4) Either:
 - (A) the tax court enjoins collection of the penalty or the tax on which the penalty is based; or
 - (B) the department consents to an injunction against collection of the penalty or tax without entry of an order by the tax court.

SECTION 13. The provision for doubling the penalty as contained in SECTION 11 of this document does not apply if any of the following circumstances apply:

- (1) the taxpayer has a legitimate hold on making the payment as a result of an audit, bankruptcy, protest, taxpayer advocate action, criminal investigation, or prosecution;
- (2) the taxpayer had established a payment plan with the department by May 12, 2005; or
- (3) the taxpayer proves that the taxpayer did not ever receive notice of the outstanding tax liability.

SECTION 14. (a) A taxpayer that has a legitimate hold on making a payment or had established a payment plan with the department by May 12, 2005, may participate in the amnesty program and have penalty, interest, and costs waived by the department.

(b) A taxpayer that claims they never received the notice described in SECTION 15 of this document must prove that the taxpayer never resided or never operated a business at the address to which the notification of the amnesty program was mailed.

SECTION 15. (a) All taxpayers that are eligible for amnesty that have an outstanding tax liability for a listed tax that is due and payable will be notified by first class mail between August 15, 2005, and September 15, 2005, at the last known address of the taxpayer that they are eligible to participate in the amnesty program.

(b) The taxpayer will be notified of all known outstanding tax liabilities that qualify for amnesty by tax type and tax period.

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(c) The notification will include the amount of payment required to take advantage of the amnesty program and the amount of tax, penalty, interest, and costs that will be due if the taxpayer does not take advantage of the amnesty program.

SECTION 16. (a) A taxpayer desiring to take advantage of the amnesty program can pay the base tax due by mailing to the department the amount of tax due.

(b) The taxpayer can remit the payment by check, money order, or certified funds through the U.S. mail.

(c) If the taxpayer chooses to remit via the Internet, they can pay with a credit card, debit card, or by eCheck.

SECTION 17. (a) A taxpayer that participates in the amnesty program must agree to all provisions contained in SECTIONS 7 through 9 of this document. The taxpayer acknowledges all terms of the agreement when they sign the coupon that is to be sent to the department when the taxpayer pays the liability.

(b) A taxpayer that remits and agrees to amnesty through the department's amnesty Web site by clicking on the "I accept the terms of the agreement" checkbox is consenting to the amnesty agreement.

SECTION 18. (a) A taxpayer agreement is completed when the taxpayer signs the amnesty agreement and returns the amnesty payment coupon to the department, or files amended returns to report a previous tax deficiency, or files an initial return if the taxpayer had failed to file and remit for amnesty eligible tax periods.

(b) A taxpayer may appoint a personal representative to sign the amnesty agreement. However, the taxpayer shall complete a Power of Attorney (Form POA-1) giving the representative authorization to sign on behalf of the taxpayer.

SECTION 19. A prerequisite to participation in the amnesty program requires the taxpayer to:

- (1) pay the full amount of a tax liability for a tax period;
- (2) relinquish all rights to protest a tax liability that is being paid; and
- (3) agree not file a claim for refund of the tax paid.

SECTION 20. (a) A taxpayer that has multiple tax liabilities that are eligible for the tax amnesty program shall have any payment applied to the oldest tax liability for which the taxpayer's payment can satisfy the tax liability in full.

(b) The oldest liability shall be determined by the date of the tax period.

(c) The allocation of a payment to the oldest tax liability

first may be altered if the taxpayer specifically indicates the allocation of a payment to another liability.

SECTION 21. Any overpayment by a taxpayer during the amnesty period for an amnesty eligible liability that is a computational error may be refunded to the taxpayer at the department's discretion. If the overpayment is not refunded, it shall be credited to the taxpayer.

SECTION 22. If a taxpayer properly protests a proposed assessment of the department, the tax liability protested is eligible for the amnesty program.

SECTION 23. (a) A taxpayer that receives an assessment based on best information available (BIA) that is issued for a tax period that qualifies for amnesty is allowed to pay the amount of the base tax assessed.

(b) If the taxpayer remits an amount that is different than the base tax amount assessed, the taxpayer must file a tax return for the tax period.

(c) A taxpayer that files a return reporting zero (0) tax liability as the result of a BIA assessment shall attach a verification that no tax liability exists.

(d) Verification of no tax liability can be proven by attaching evidence that no tax liability exists. Examples of documents the department will consider acceptable include the following:

- (1) Minutes of the final board of directors meeting.
- (2) Records of bank accounts closed.
- (3) Articles of dissolution.
- (4) Notarized statement of dissolution from an officer of the business.
- (5) Final utility bills.
- (6) Any proof of dissolution filed with the Internal Revenue Service.
- (7) Books and records or any other pertinent information.

SECTION 24. (a) A taxpayer that established a payment plan with the department on or before May 12, 2005, is eligible to participate in the amnesty program.

(b) The taxpayer may pay the remaining balance of the payment plan in full during the amnesty program.

(c) The taxpayer, upon approval of the department, may establish an amnesty payment plan and shall conform to the requirements of SECTION 10 of this document.

(d) If the taxpayer is not able to pay the remaining balance during the amnesty period, or will not be able to pay the remaining balance through an amnesty payment plan, the taxpayer may elect not to participate in the amnesty program without being subject to the double penalty assessment.

SECTION 25. (a) A payment by a taxpayer that is made in anticipation of an audit assessment for a listed tax is not considered an amnesty payment unless the taxpayer is filing an amended return admitting to previous under reporting of a tax liability for the tax period.

(b) A taxpayer that makes a payment as part of an amended return pursuant to the amnesty program cannot file a claim for refund if an audit determines that the taxpayer overpaid the tax liability for the reporting period.

SECTION 26. (a) A taxpayer that has established a payment plan with a sheriff, collection attorney, or collection agency will discontinue making payments as of June 15, 2005, and will be eligible for the tax amnesty program.

(b) A taxpayer that had been on a payment plan will receive an amnesty packet from the department before the amnesty program begins.

(c) A taxpayer may elect to pay the remaining balance to the department during amnesty, and all remaining penalties, interest, and costs will be waived.

(d) If the taxpayer does not pay the balance of tax due, or does not establish a payment plan within the amnesty program, the taxpayer is subject to the double penalty after the amnesty period ends.

SECTION 27. LSA Document #05-188(E) IS REPEALED.

SECTION 28. This document expires December 31, 2006.

LSA Document #05-273(E)

Filed with Secretary of State: September 9, 2005, 2:45 p.m.

TITLE 52 INDIANA BOARD OF TAX REVIEW

LSA Document #05-277(E)

DIGEST

Temporarily adds provisions establishing procedures to govern proceedings before the Indiana Board of Tax Review with respect to appeals for the 2002 assessment year in Lake County. Authority: HEA 1535, P.L.235-2003; IC 4-22-2-37.1; IC 6-1.1-4-34. Effective September 14, 2005.

SECTION 1. The purpose of this document is to establish procedures to govern administrative proceedings before the board arising from appeals of assessments of real property in Lake County for the March 1, 2002, assessment date. The definitive procedures, procedural requirements, and evidentiary controls established by this document are deemed essential to assure that the administrative appeals

before the board are conducted in the most uniform and objective manner possible.

SECTION 2. (a) The provisions of this document apply to and govern all proceedings before the board that arise from appeals of assessments:

- (1) of real property located in Lake County;
- (2) completed for the March 1, 2002, assessment date; and
- (3) performed by the department of local government finance or the department's authorized contractor pursuant to IC 6-1.1-4-32.

(b) The procedures set forth in 52 IAC 2 apply to petitions filed under IC 6-1.1-15 and do not reflect the unique process of IC 6-1.1-34 (governing appeals from the Lake county reassessment for 2002). However, many of the general rule provisions of 52 IAC 2 are applicable to matters heard under IC 6-1.1-34. Therefore, the definitions and rules found in 52 IAC 2 that are not inconsistent with this document apply to the appeals described in subsection (a). If there is a conflict, the definitions and rules of this document will control.

(c) The provisions of 52 IAC 2-6-6 do not apply to this document.

SECTION 3. The board shall conduct an impartial review of an appeal from a final assessment decision under IC 6-1.1-4-33(g) issued by the department.

SECTION 4. The following definitions apply throughout this document:

- (1) "Appeal petition" means a petition for review of a final assessment decision issued by the department and filed with the board under IC 6-1.1-4-34 on form 139L or such other form as prescribed by the board.
- (2) "Contractor" means a firm that entered into a contract with the department to assess property in the county and to conduct informal hearings concerning assessments of real property in the county under IC 6-1.1-4-32 and IC 6-1.1-4-33.
- (3) "County" means Lake County, Indiana.
- (4) "Department" means the department of local government finance established under IC 6-1.1-30-1.1.
- (5) "Final assessment decision" means a final decision issued by the department that serves as notice of a changed reassessment that may be appealed under IC 6-1.1-4-34(c).
- (6) "Final order" or "final determination" means any action of the board that is:
 - (A) designated as final by the board;
 - (B) the final step in the administrative process before resort may be made to the judiciary; or
 - (C) subject to appeal to tax court under IC 6-1.1-4-34(m).
- (7) "Informal hearing" means the process described in IC 6-1.1-4-33(b).

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(8) "Notice of reassessment" means a written notice of the assessed value of real property delivered to the taxpayer by the department pursuant to IC 6-1.1-4-32(f).

(9) "Special master" means a qualified individual designated by the board under IC 6-1.1-4-34(e) to conduct evidentiary hearings and prepare reports in accordance with IC 6-1.1-4-34(g).

SECTION 5. (a) An appeal petition must be filed with the county assessor within thirty (30) days after the department gives notice of the final assessment decision.

(b) There is a rebuttable presumption that the final assessment decision is mailed on the date of the final assessment decision.

SECTION 6. In order to appeal to the board, the taxpayer must:

- (1) request and participate as required in the informal hearing process under IC 6-1.1-4-33 not later than forty-five (45) days after the date of the notice of reassessment;
- (2) receive a final assessment decision from the department; and
- (3) file an appeal petition with the county assessor not later than thirty (30) days after the notice of the final assessment decision is given to the taxpayer.

SECTION 7. The hearing shall be scheduled no earlier than thirty (30) days after receipt of the appeal petition unless otherwise agreed by the parties.

SECTION 8. (a) Hearings will be conducted by a special master or by a member of the board acting as a special master.

(b) All testimony shall be under oath or affirmation.

(c) Hearings will be tape-recorded. The recording will serve as the basis of the official record of the proceeding unless the hearing is transcribed by a court reporter. A party may hire a court reporting service to transcribe the hearing so long as the reporting service is directed to submit an official copy of the transcript to the board at no cost to the board.

(d) The special master may rule on any nonfinal order without the approval of a majority of the board.

(e) In order for a tax representative to participate in the hearing, the tax representative must be certified by the department and follow the rules of 52 IAC 1.

SECTION 9. (a) Hearings held before a special master shall be held in the county or at such other location as the parties and the designated special master agree.

(b) Hearings held by a member of the board acting as a special master may be held in the central office.

SECTION 10. (a) Except as provided in subsection (d), a party participating in the hearing may introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at the informal hearing described in IC 6-1.1-4-33.

(b) No posthearing submissions will be allowed or accepted unless requested by the board.

(c) The parties shall make available to all other parties copies of any documentary evidence and the names and addresses of all witnesses intended to be presented at the hearing at least five (5) days before the hearing. At the commencement of the hearing, the parties shall make available to the presiding special master a copy of all documentary evidence provided to the other parties.

(d) Failure to comply with subsection (c) may serve as grounds to exclude the evidence.

SECTION 11. A hearing may be continued only upon a showing of extraordinary circumstances.

SECTION 12. (a) The board shall conduct a hearing within the time limits set forth in IC 6-1.1-15-4(f) unless the board extends the time under subsection (c).

(b) The board shall make a final determination within the time limits set forth in IC 6-1.1-15-4(h) unless the board extends the time under subsection (c).

(c) If, due to the volume of pending appeals, it becomes impracticable to either conduct a hearing or make a final determination within the time frames established by IC 6-1.1-15-4, the board may extend the time frames as necessary.

SECTION 13. (a) The board shall examine each petition filed under SECTION 5 of this document to determine whether it meets the jurisdictional requirements of IC 6-1.1-4-34(c). The board may establish procedures for such examinations, and the procedures may include orders to submit additional information, telephone conferences to clarify information provided, or other proceedings involving the parties as necessary to determine the events surrounding the taxpayer's filing.

(b) If a petitioner fails to respond to an order requesting additional information, or if, after the board has completed its examination, it is determined that the petitioner did not meet the jurisdictional requirements set forth in IC 6-1.1-4-34(c), the board shall dismiss the petition.

SECTION 14. The board may establish procedures to govern the participation of a township assessor or county assessor who wishes to attend or participate in a hearing under IC 6-1.1-4-34(j).

SECTION 15. This document readopts the provisions of LSA Document #05-54(E).

LSA Document #05-277(E)

Filed with Secretary of State: September 14, 2005, 11:45 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-278(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 775. Effective September 20, 2005.

SECTION 1. The name of this scratch-off game is “Scratch-Off Game Number 775, Wild Cherry”.

SECTION 2. Scratch-off tickets in scratch-off game number 775 shall sell for one dollar (\$1) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 775 shall contain twenty (20) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. The twenty (20) play symbols and play symbol captions shall be arranged in a matrix of five (5) rows and four (4) columns. The rows shall be five (5) separate and independent games labeled “GAME 1”, “GAME 2”, “GAME 3”, “GAME 4”, and “GAME 5”, respectively. The first three (3) columns shall be unlabeled but the fourth column shall be labeled “PRIZE”.

(b) The play symbols and play symbol captions, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) A picture of a clump of cherries
CHY
- (2) A picture of an orange
ORG
- (3) A picture of a slice of melon
MEL
- (4) A picture of a banana
BAN
- (5) A picture of a lemon
LEM
- (6) A picture of a pineapple
PNA
- (7) A picture of a bunch of grapes
GRP
- (8) A picture of an apple
APL
- (9) A picture of a bar
BAR
- (10) A picture of a 7
SVN

- (11) A picture of a crown
CRN
- (12) A picture of a diamond
DMD
- (13) A picture of a bell
BEL
- (14) A picture of a horseshoe
SHO
- (15) A picture of a four-leafed clover
CLO

(c) The play symbols representing prize amounts shall consist of the following possible play symbols:

- (1) \$1.00
ONE
- (2) \$2.00
TWO
- (3) \$3.00
THREE
- (4) \$4.00
FOUR
- (5) \$5.00
FIVE
- (6) \$10.00
TEN
- (7) \$20.00
TWENTY
- (8) \$40.00
FORTY
- (9) \$100
ONE HUN
- (10) \$1,000
ONE THOU
- (11) \$5,000
FIVE THOU

SECTION 4. (a) The holder of an [*sic., a*] scratch-off ticket in scratch-off game number 775 shall remove the latex material covering the twenty (20) play symbols and play symbol captions. If three (3) matching play symbols and play symbol captions are exposed in one (1) or more rows, the holder is entitled to the corresponding prize amounts for those rows. If a play symbol representing a picture of a bunch of cherries with the play symbol caption “CHY” is exposed in a row, the holder is automatically entitled to the corresponding prize for that row.

(b) The number of winning plays and the associated prize amount play symbols, total prize amounts, and approximate number of winners in scratch-off game number 775 are as follows:

Number of Matched Play Symbols & Prize Amounts	Prize Amount	Approximate Number of Winners
1 – \$1.00	\$1	504,000
1 – \$2.00	\$2	168,000
2 – \$1.00	\$2	168,000

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1 – \$4.00	\$4	50,400
4 – \$1.00	\$4	50,400
1 – \$5.00	\$5	16,800
1 – \$2.00 + 1 – \$3.00	\$5	16,800
1 – \$10.00	\$10	50,400
4 – \$5.00	\$20	8,400
1 – \$20.00	\$20	8,400
1 – \$40.00	\$40	2,520
4 – \$10.00	\$40	2,520
1 – \$100	\$100	1,680
1 – \$1,000	\$1,000	63
1 – \$5,000	\$5,000	6

SECTION 5. (a) There shall be approximately five million (5,000,000) scratch-off tickets initially available in scratch-off game number 775.

(b) The odds of winning a prize in scratch-off game number 775 are approximately 1 in 4.81.

(c) All reorders of tickets for scratch-off game number 775 shall have the same:

- (1) prize structure;
 - (2) number of prizes per prize pool of two hundred forty thousand (240,000); and
 - (3) odds;
- as contained in the initial order.

SECTION 6. The last day to claim a prize in scratch-off game number 775 is September 30, 2006.

SECTION 7. This rule shall expire on October 30, 2006.

LSA Document #05-278(E)
Filed with Secretary of State: September 20, 2005, 2:01 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-279(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 776. Effective September 20, 2005.

SECTION 1. The name of this scratch-off game is “Scratch-Off Game Number 776, Red Hot 5’s”.

SECTION 2. Scratch-off tickets in scratch-off game number 776 shall sell for two dollars (\$2) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 776 shall contain eighteen (18) play symbols and play symbol captions in the game play data area all

concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled “WINNING NUMBERS”. Sixteen (16) play symbols and play symbol captions shall appear in the area labeled “YOUR NUMBERS” and be arranged in pairs representing numbers and prize amounts.

(b) The play symbols and play symbol captions in instant game number 776, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) 1
ONE
- (2) 2
TWO
- (3) 3
THR
- (4) 4
FOR
- (5) An enlarged red 5
FIV
- (6) 6
SIX
- (7) 7
SVN
- (8) 8
EGT
- (9) 9
NIN
- (10) 10
TEN
- (11) 11
ELVN
- (12) 12
TWLV
- (13) 13
THRTN
- (14) 14
FORTN
- (15) 15
FIFTN
- (16) 16
SIXTN
- (17) 17
SVNTN
- (18) 18
EGHTN
- (19) 19
NINTN
- (20) 20
TWTY

(c) The play symbols and play symbol captions representing prize amounts shall consist of the following possible play symbols and play symbol captions:

- (1) \$1.00

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ONE
 (2) \$2.00
 TWO
 (3) \$3.00
 THREE
 (4) \$4.00
 FOUR
 (5) \$5.00
 FIVE
 (6) \$10.00
 TEN
 (7) \$20.00
 TWENTY
 (8) \$40.00
 FORTY
 (9) \$50.00
 FIFTY
 (10) \$100
 ONE HUN
 (11) \$200
 TWO HUN
 (12) \$400
 FOUR HUN
 (13) \$500
 FIVE HUN
 (14) \$1,000
 ONE THOU
 (15) \$15,000
 FTN THOU

1 – \$10.00	\$10	7,500
2 – \$10.00	\$20	3,750
1 – \$5.00 with red 5 + 1 – \$10.00	\$20	7,500
1 – \$20.00	\$20	3,750
4 – \$10.00	\$40	2,500
1 – \$10.00 with red 5 + 2 – \$10.00	\$40	3,750
1 – \$40.00	\$40	2,500
2 – \$50.00	\$100	1,000
5 – \$20.00	\$100	1,000
1 – \$50.00 with red 5	\$100	1,500
1 – \$100	\$100	1,000
8 – \$50.00	\$400	250
1 – \$200 with red 5	\$400	250
1 – \$400	\$400	250
2 – \$500	\$1,000	75
1 – \$1,000	\$1,000	50
1 – \$15,000	\$15,000	6

SECTION 4. (a) The holder of a ticket in scratch-off game number 776 shall remove the latex material covering the eighteen (18) play symbols and play symbol captions. If one (1) or more of the play symbols and play symbol captions in the “YOUR NUMBERS” area match either of the play symbols and play symbol captions in the “WINNING NUMBERS” area, the holder is entitled to the paired prize amount or amounts. If the play symbol and play symbol caption representing an enlarged, red “5” are exposed in the “YOUR NUMBERS” area, the holder is entitled to double the paired prize amount.

(b) The prize amounts and number of winners in scratch-off game number 776 are as follows:

Number of Matched Play Symbols & Prizes	Prize Amount	Approximate Number of Winners
1 – \$2.00	\$2	300,000
1 – \$2.00 with red 5	\$4	180,000
1 – \$4.00	\$4	60,000
1 – \$1.00 with red 5 + 1 – \$3.00	\$5	45,000
1 – \$5.00	\$5	15,000
5 – \$2.00	\$10	7,500
1 – \$5.00 with red 5	\$10	22,500
5 – \$1.00 + 1 – \$5.00	\$10	7,500

SECTION 5. (a) There shall be approximately three million (3,000,000) scratch-off tickets initially available in scratch-off game number 776.

(b) The odds of winning a prize in scratch-off game number 776 are approximately 1 in 4.45.

(c) All reorders of tickets for scratch-off game number 776 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
- (3) odds;

as contained in the initial order.

SECTION 6. The last day to claim a prize in scratch-off game number 776 is September 30, 2006.

SECTION 7. This document expires October 30, 2006.

LSA Document #05-279(E)

Filed with Secretary of State: September 20, 2005, 2:00 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-280(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 777. Effective September 20, 2005.

SECTION 1. The name of this scratch-off game is “Scratch-Off Game Number 777, High Stakes”.

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SECTION 2. Scratch-off tickets in scratch-off game number 777 shall sell for two dollars (\$2) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 777 shall contain twenty-one (21) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. One (1) play symbol and play symbol caption representing a playing card shall appear in the box labeled "DEALER'S CARD", located in the upper left of the game play data area. One (1) play symbol and play symbol caption representing a playing card shall appear in the box labeled "HIGH STAKES CARD", located in the lower left of the game play data area. Directly below the "HIGH STAKES CARD" box, one (1) play symbol and play symbol caption representing a prize amount shall appear in the box labeled "BONUS PRIZE". Eighteen (18) play symbols and play symbol captions shall be arranged in a matrix of nine (9) rows and two (2) columns labeled "YOUR CARD" and "PRIZE". The play symbols and play symbol captions appearing in the "YOUR CARD" column shall represent playing cards while the play symbols and play symbol captions in the "PRIZE" column shall represent prize amounts.

(b) The play symbols and play symbol captions, other than [*sic., than*] those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1)	2 TWO
(2)	3 THR
(3)	4 FOR
(4)	5 FIV
(5)	6 SIX
(6)	7 SVN
(7)	8 EGT
(8)	9 NIN
(9)	10 TEN
(10)	J JCK
(11)	Q QUN
(12)	K KNG
(13)	A ACE

(c) The play symbols and play symbol captions of prize amounts shall consist of the following possible play symbols and play symbol captions:

- (1) \$1.00
ONE
- (2) \$2.00
TWO
- (3) \$3.00
THREE
- (4) \$4.00
FOUR
- (5) \$5.00
FIVE
- (6) \$7.00
SEVEN
- (7) \$10.00
TEN
- (8) \$15.00
FIFTEEN
- (9) \$20.00
TWENTY
- (10) \$30.00
THIRTY
- (11) \$50.00
FIFTY
- (12) \$100
ONE HUN
- (13) \$200
TWO HUN
- (14) \$1,000
ONE THOU
- (15) \$5,000
FIV THOU
- (16) \$10,000
TEN THOU

SECTION 4. (a) The holder of a scratch-off ticket in scratch-off game number 777 shall remove the latex material covering the twenty-one (21) play symbols and play symbol captions. If the play symbol and play symbol caption exposed in the "DEALER'S CARD" box matches one (1) or more of the play symbols and play symbol captions exposed in the "YOUR CARDS" column, the holder is entitled to the corresponding prize for the matched row. If the play symbol and play symbol caption exposed in the "HIGH STAKES CARD" box has a higher value than the play symbol and play symbol caption exposed in the "DEALER'S CARD" box, the holder is entitled to the prize amount exposed in the "BONUS PRIZE" box. Play symbols and play symbol captions representing playing cards are valued in descending order with aces as the high cards.

(b) The number of winning plays and the associated prize amount play symbols, total prize amounts, and approximate number of winners in scratch-off game number 777 are as follows:

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LSA Document #05-281(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 045.
Effective September 23, 2005.

SECTION 1. The name of this pull-tab game is “Pull-Tab Game Number 045, Lingo Bingo”.

SECTION 2. Pull-tab tickets for pull-tab game number 045 shall sell for fifty cents (\$0.50) per ticket.

SECTION 3. A pull-tab ticket in pull-tab game number 045 shall contain five (5) play symbols consisting of one (1) letter from among B, I, N, G, and O and one (1) number from among one (1) through seventy-five (75). One (1) play symbol shall appear under each of five (5) tabs. The background under the play symbols shall be red, gray, blue, purple, or green.

SECTION 4. The play symbols in pull-tab game number 045 shall consist of the following possible play symbols:

SYMBOL	SYMBOL	SYMBOL	SYMBOL	SYMBOL
B-1	I-16	N-31	G-46	O-61
B-2	I-17	N-32	G-47	O-62
B-3	I-18	N-33	G-48	O-63
B-4	I-19	N-34	G-49	O-64
B-5	I-20	N-35	G-50	O-65
B-6	I-21	N-36	G-51	O-66
B-7	I-22	N-37	G-52	O-67
B-8	I-23	N-38	G-53	O-68
B-9	I-24	N-39	G-54	O-69
B-10	I-25	N-40	G-55	O-70
B-11	I-26	N-41	G-56	O-71
B-12	I-27	N-42	G-57	O-72
B-13	I-28	N-43	G-58	O-73
B-14	I-29	N-44	G-59	O-74
B-15	I-30	N-45	G-60	O-75

SECTION 5. A pull-tab ticket in pull-tab game number 045 is not a winning pull-tab ticket unless the following are true:

- (1) The letter portion of each play symbol appears on the left side of the game play data area under each tab resulting in a horizontal line of five (5) letters.
- (2) The letters in the play symbols, regardless of their order in the horizontal line, combine to make the word “BINGO”.
- (3) The play symbols and play symbol captions in the horizontal line are consistent with those specified in SECTION 4 of this rule [document].
- (4) The prize amount appears in red ink on a yellow box

Number of Matched Play Symbols & Paired Prizes	Prize Amount	Approximate Number of Winners
1 – \$2.00	\$2	270,000
1 – \$4.00	\$4	225,000
1 – \$2.00 + 1 – \$3.00 with BONUS	\$5	60,000
1 – \$5.00	\$5	30,000
9 – \$1.00 + 1 – \$1.00 with BONUS	\$10	15,000
5 – \$2.00	\$10	15,000
1 – \$3.00 + 1 – \$7.00 with BONUS	\$10	15,000
1 – \$10.00	\$10	15,000
2 – \$10.00	\$20	7,500
9 – \$2.00 + 1 – \$2.00 with BONUS	\$20	3,750
1 – \$5.00 + 1 – \$15.00 with BONUS	\$20	3,750
1 – \$20.00	\$20	3,750
9 – \$5.00 + 1 – \$5.00 with BONUS	\$50	2,750
5 – \$10.00	\$50	2,750
1 – \$50.00	\$50	1,050
9 – \$10.00 + 1 – \$10.00 with BONUS	\$100	1,000
1 – \$50.00 + 1 – \$50.00 with BONUS	\$100	1,000
1 – \$10.00 + 1 – \$30.00 + 3 – \$20.00	\$100	1,000
1 – \$100	\$100	1,000
4 – \$100	\$400	375
5 – \$200	\$1,000	20
1 – \$1,000	\$1,000	20
2 – \$5,000	\$10,000	10
1 – \$10,000	\$10,000	5

SECTION 5. (a) There shall be approximately three million (3,000,000) scratch-off tickets initially available in scratch-off game number 777.

(b) The odds of winning a prize in scratch-off game number 777 are approximately 1 in 4.45.

(c) All reorders of tickets for scratch-off game number 777 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
- (3) odds;

as contained in the initial order.

SECTION 6. The last day to claim a prize in scratch-off game number 777 is September 30, 2006.

SECTION 7. This rule shall expire on October 30, 2006.

LSA Document #05-280(E)

Filed with Secretary of State: September 20, 2005

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located to the left side of the play symbol exposed under the bottom tab.

(5) The background exposed beneath each play symbol is the same throughout the ticket and is either red, gray, blue, purple, or green.

SECTION 6. Subject to SECTION 5 of this rule [document], the holder of a valid pull-tab ticket for pull-tab game number 045 containing a combination of five (5) play symbols representing that form the word "BINGO" in a horizontal line is entitled to a prize based on the background color. The winning combinations, prize amounts, and approximate number of prizes are as follows:

Winning BINGO Combinations	Prize Amount	Approximate Number of Prizes
BINGO on green	\$0.50	214,320
BINGO on purple	\$1	75,012
BINGO on blue	\$5	16,074
BINGO on gray	\$10	5,358
BINGO on red	\$100	2,679

SECTION 7. A total of approximately one million eight hundred thousand (1,800,000) pull-tab tickets will be initially available for pull-tab game number 045. The odds of winning a prize in pull-tab game number 045 are approximately 1 in 5.74. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 045 shall be sixty (60) days after the end of the game. End of game dates are available at any retailer location, on the commission's Web site at www.hoosierlottery.com, and via the commission's customer service center which can be contacted toll-free at 1-800-955-5886.

LSA Document #05-281(E)

Filed with Secretary of State: September 23, 2005, 1:00 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-282(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 057. Effective September 23, 2005.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 057, Diamond Quest".

SECTION 2. Pull-tab tickets for pull-tab game number

057 shall sell for twenty-five cents (\$0.25) per ticket.

SECTION 3. Pull-tab game number 057 is a match 3 game.

SECTION 4. A pull-tab ticket in pull-tab game number 057 shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 057 shall consist of the following possible play symbols:

- (1) A picture of a diamond
DIAMOND
- (2) A picture of a "7"
SEVEN
- (3) A picture of a star
STAR
- (4) A picture of three (3) bars
BAR
- (5) A picture of a plum
PLUM
- (6) A picture of an orange
ORANGE
- (7) A picture of a half of a watermelon
WATERMELON

SECTION 5. A row on a pull-tab ticket in pull-tab game number 057 which contains three (3) play symbols and play symbol captions is not a match 3 winning row unless all of the following are true:

- (1) The play symbols and play symbol captions appear in one (1) of the following combinations:
 - (A) 3 diamonds
 - (B) 2 diamonds + 1 - seven
 - (C) 2 diamonds + 1 - star
 - (D) 2 diamonds + 1 - bar
- (2) The play symbols and play symbol captions in the row are consistent with those specified in SECTION 4 of this document.
- (3) The three (3) play symbols and play symbol captions in the row are bisected by a pink arrow.
- (4) The prize amount appears on the left side of the row in red ink on a yellow box.

SECTION 6. Subject to SECTION 5 of this document, the holder of a valid pull-tab ticket for pull-tab game number 057 containing a match 3 winning row is entitled to a prize the amount and the approximate number of which are as follows:

Matching Play Symbols	Prize Amount	Approximate Number of Prizes
2 diamonds + 1 bar	\$50	375,060
2 diamonds + 1 star	\$1	53,580
2 diamonds + 1 seven	\$5	4,465
3 diamonds	\$50	4,465

SECTION 7. A total of approximately three million

(3,000,000) pull-tab tickets will be initially available for pull-tab game number 057. The odds of winning a prize in pull-tab game 057 are approximately 1 in 6.86. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 057 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at www.hoosierlottery.com or may be obtained through the commission's toll-free customer service number or from any pull-tab retailer.

LSA Document #05-282(E)
Filed with Secretary of State: September 23, 2005, 1:00 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-292(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 778. Effective October 7, 2005.

SECTION 1. The name of this scratch-off game is "Scratch-Off Game Number 778, Big Money".

SECTION 2. Scratch-off tickets in scratch-off game number 778 shall sell for two dollars (\$2) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 778 shall contain forty-six (46) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Six (6) play symbols and play symbol captions representing numbers shall appear in the area labeled "WINNING NUMBERS". Forty (40) play symbols and play symbol captions shall appear in the area labeled "YOUR NUMBERS" arranged in pairs representing numbers, double dollar signs, or the term "BIG" accompanied by prize amounts.

(b) The play symbols and play symbol captions in scratch-off game number 778, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) 1
ONE
- (2) 2
TWO
- (3) 3
THR
- (4) 4
FOR

- (5) 5
FIV
- (6) 6
SIX
- (7) 7
SVN
- (8) 8
EGT
- (9) 9
NIN
- (10) 10
TEN
- (11) 11
ELV
- (12) 12
TLV
- (13) 13
TRN
- (14) 14
FRN
- (15) 15
FTN
- (16) 16
SXT
- (17) 17
SVT
- (18) 18
ETN
- (19) 19
NTN
- (20) 20
TWY
- (21) 21
TWN
- (22) 22
TWT
- (23) 23
TWR
- (24) 24
TWF
- (25) 25
TWV
- (26) 26
TWS
- (27) 27
TWN
- (28) 28
TWE
- (29) 29
TWN
- (30) 30
TTY
- (31) 31
THT
- (32) 32
THO

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- (33) 33
TTH
- (34) 34
TTF
- (35) 35
THF
- (36) 36
THS
- (37) 37
TTS
- (38) 38
THE
- (39) 39
THN
- (40) 40
FRY
- (41) 41
FRO
- (42) 42
FRT
- (43) 43
FRH
- (44) 44
HRF
- (45) 45
FRV
- (46) 46
FRS
- (47) 47
FSN
- (48) 48
FRE
- (49) 49
FNI
- (50) 50
FTY
- (51) 51
FYO
- (52) 52
FYO
- (53) 53
FYH
- (54) 54
FYF
- (55) 55
FYV
- (56) 56
FYS
- (57) 57
FYN
- (58) 58
FYE
- (59) 59
FNN
- (60) 60
SXY

- (61) \$\$
DOUBLE
- (62) The term "BIG" in a box
WIN ALL

(c) The play symbols and play symbol captions representing prize amounts in scratch-off game number 778 shall consist of the following possible play symbols and play symbol captions:

- (1) \$5.00
FIVE
- (2) \$10.00
TEN
- (3) \$15.00
FIFTEEN
- (4) \$20.00
TWENTY
- (5) \$25.00
TWY FIV
- (6) \$50.00
FIFTY
- (7) \$100
ONE HUN
- (8) \$200
TWO HUN
- (9) \$250
TWO FTY
- (10) \$500
FIV HUN
- (11) \$1,000
ONE THOU
- (12) \$10,000
TEN THOU
- (13) \$250,000
TWHNFY THOU

SECTION 4. The holder of a ticket in scratch-off game number 778 shall remove the latex material covering the forty-six (46) play symbols and play symbol captions. If any of the "YOUR NUMBERS" play symbols and play symbol captions match any of the "WINNING NUMBERS" play symbols and play symbol captions, the holder is entitled to the paired prize amount. If the play symbol "\$\$" is exposed in "YOUR NUMBERS" area, the holder is entitled to double the paired prize amount. If the play symbol "BIG" is exposed in the "YOUR NUMBERS" area, the holder is entitled to all twenty (20) prize amounts. The matched prize play symbols, prize amounts, and approximate number of winners in scratch-off game number 778 are as follows:

Number of Match(s) and Play Symbols	Total Prize Amount	Approximate Number of Winners
1 – \$5.00 with \$\$	\$10	144,000
1 – \$10.00	\$10	108,000
1 – \$5.00 + 1 – \$10.00	\$15	36,000

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1 – \$15.00	\$15	36,000
2 – \$5.00 + 1 – \$10.00	\$20	72,000
1 – \$10.00 with \$\$	\$20	72,000
1 – \$20.00	\$20	36,000
10 – \$5.00	\$50	3,000
1 – \$25.00 with \$\$	\$50	3,000
5 – \$10.00	\$50	3,000
2 – \$20.00 + 1 – \$10.00	\$50	3,000
1 – \$50.00	\$50	3,000
20 – \$5.00 with BIG	\$100	3,000
10 – \$10.00	\$100	3,000
5 – \$20.00	\$100	3,000
1 – \$10.00 + 2 – \$20.00 + 1 – \$50.00	\$100	3,000
1 – \$100	\$100	3,000
20 – \$10.00 with BIG	\$200	975
10 – \$20.00	\$200	975
1 – \$10.00 + 1 – \$20.00 with \$\$ + 1 – \$50 + 1 – \$100	\$200	975
4 – \$50.00	\$200	750
1 – \$200.00	\$200	750
10 – \$20.00 + 3 – \$100	\$500	150
10 – \$50.00	\$500	150
6 – \$50.00 + 1 – \$100 with \$\$	\$500	150
5 – \$100	\$500	150
1 – \$500	\$500	150
20 – \$50 with BIG	\$1,000	120
10 – \$50.00 + 1 – \$250 with \$\$	\$1,000	60
5 – \$200	\$1,000	60
1 – \$1,000	\$1,000	60
20 – \$500 with BIG	\$10,000	30
1 – \$10,000	\$10,000	30
1 – \$250,000	\$250,000	6

SECTION 5. (a) There shall be approximately three million (3,000,000) scratch-off tickets initially available in scratch-off game number 778.

(b) The odds of winning a prize in scratch-off game number 778 are approximately 1 in 3.34.

(c) All reorders of tickets for scratch-off game number 778 shall have the same:

- (1) prize structure;
 - (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
 - (3) odds;
- as contained in the initial order.

SECTION 6. The last day to claim a prize in scratch-off game number 778 is October 31, 2006.

SECTION 7. This rule [document] shall expire November 30, 2006.

LSA Document #05-292(E)

Filed with Secretary of State: October 7, 2005, 4:10 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-298(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 815. Effective October 13, 2005.

SECTION 1. The name of this scratch-off game is “Scratch-Off Game Number 815, Double Your Luck”.

SECTION 2. Scratch-off tickets in scratch-off game number 815 shall sell for one dollar (\$1) per ticket.

SECTION 3. Each scratch-off ticket in scratch-off game number 815 shall contain nine (9) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. The play symbols and play symbol captions in scratch-off game number 815 shall consist of the following possible play symbols and play symbol captions:

- (1) \$1.00
ONE
- (2) \$2.00
TWO
- (3) \$4.00
FOUR
- (4) \$5.00
FIVE
- (5) \$10.00
TEN
- (6) \$20.00
TWENTY
- (7) \$25.00
TWY FIVE
- (8) \$50.00
FIFTY
- (9) \$100
ONE HUN
- (10) \$250
TWO FTY
- (11) \$500
FIVE HUN
- (12) \$2,500
TWFV HUN
- (13) \$\$
DOUBLE

SECTION 4. The holder of a ticket in scratch-off game

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number 815 shall remove the latex material covering the nine (9) play symbols and play symbol captions. If three (3) matching play symbols and play symbol captions are exposed, the holder is entitled to a prize of the matched amount. If two (2) matching play symbols and play symbol captions and one (1) play symbol of "\$\$" are exposed, the holder is entitled to a prize of double the matched amount. The prize amounts and number of winners in scratch-off game number 815 are as follows:

Matched Play Symbols	Prize Amount	Approximate Number of Winners
3 – \$1.00	\$1	789,600
2 – \$1.00 + \$\$	\$2	67,200
3 – \$2.00	\$2	67,200
3 – \$4.00	\$4	33,600
2 – \$2.00 + \$\$	\$4	33,600
3 – \$5.00	\$5	33,600
2 – \$5.00 + \$\$	\$10	16,800
2 – \$10.00 + \$\$	\$20	16,800
3 – \$20.00	\$20	16,800
2 – \$25.00 + \$\$	\$50	3,675
3 – \$50.00	\$50	3,675
2 – \$50.00 + \$\$	\$100	1,365
3 – \$100	\$100	1,365
3 – \$500	\$500	63
2 – \$250 + \$\$	\$500	63
3 – \$2,500	\$2,500	10

SECTION 5. (a) There shall be approximately five million forty thousand (5,040,000) scratch-off tickets initially available in scratch-off game number 815.

(b) The odds of winning a prize in scratch-off game number 815 are approximately 1 in 4.64.

(c) All reorders of tickets for scratch-off game number 815 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of two hundred forty thousand (240,000); and
- (3) odds;

as contained in the initial order.

SECTION 6. The last day to claim a prize in scratch-off game number 815 is October 28, 2006.

SECTION 7. This rule [document] shall expire November 28, 2006.

LSA Document #05-298(E)

Filed with Secretary of State: October 13, 2005, 10:00 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-299(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 781. Effective October 13, 2005.

SECTION 1. The name of this scratch-off game is "Scratch-Off Game Number 781, Fortune Cookie".

SECTION 2. Scratch-off tickets in scratch-off game number 781 shall sell for two dollars (\$2) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 781 shall contain twenty-three (23) play symbols and twenty-two (22) play symbol captions in the game play data area all concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled "LUCKY NUMBERS". One (1) play symbol shall appear in the rectangular box on the upper left side of the scratch-off ticket labeled "LUCKY FORTUNE". Twenty (20) play symbols and play symbol captions shall appear in the area labeled "YOUR NUMBERS" and be arranged in pairs representing numbers or a picture of a fortune cookie and prize amounts.

(b) The play symbols and play symbol captions in scratch-off game number 781, other than those representing prize amounts or those appearing in the "LUCKY FORTUNE" box, shall consist of the following possible play symbols and play symbol captions:

- (1) 1
ONE
- (2) 2
TWO
- (3) 3
THR
- (4) 4
FOR
- (5) 5
FIV
- (6) 6
SIX
- (7) 7
SVN
- (8) 8
EGT
- (9) 9
NIN
- (10) 10
TEN
- (11) 11
EVN
- (12) 12
TWV

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- (13) 13
THRTN
- (14) 14
FORTN
- (15) 15
FIFTN
- (16) 16
SXTN
- (17) 17
SVNTN
- (18) 18
EGHTN
- (19) 19
NINTN
- (20) 20
TWNTY

- (c) The play symbols appearing in the “LUCKY FORTUNE” box shall consist of one (1) wise aphorism or the play symbol “YOU WIN ALL 10 PRIZES”.

- (d) The play symbols and play symbol captions representing prize amounts in scratch-off game number 781 shall consist of the following possible play symbols and play symbol captions:
 - (1) \$1.00
ONE
 - (2) \$2.00
TWO
 - (3) \$3.00
THREE
 - (4) \$4.00
FOUR
 - (5) \$5.00
FIVE
 - (6) \$7.00
SEVEN
 - (7) \$10.00
TEN
 - (8) \$15.00
FIFTEEN
 - (9) \$20.00
TWENTY
 - (10) \$30.00
THIRTY
 - (11) \$50.00
FIFTY
 - (12) \$100
ONE HUN
 - (13) \$500
FIV HUN
 - (14) \$1,000
ONE THOU
 - (15) \$10,000
TEN THOU

SECTION 4. The holder of a ticket in scratch-off game number 781 shall remove the latex material covering the twenty-three (23) play symbols and twenty-two (22) play symbol captions. If any of the “YOUR NUMBERS” play symbols and play symbol captions match either of the “LUCKY NUMBERS” play symbols and play symbol captions, the holder is entitled to the paired prize amount. If the play symbol “YOU WIN ALL 10 PRIZES” is exposed in the “LUCKY FORTUNE” box, the holder is entitled to win all ten (10) prize amounts. The matched prize play symbols, prize amounts, and approximate number of winners in scratch-off game number 781 are as follows:

Number of Matched and Winning Play Symbols	Total Prize Amount	Approximate Number of Winners
1 – \$2.00	\$2	270,000
1 – \$4.00	\$4	225,000
1 – \$2.00 + 1 – \$3.00	\$5	60,000
1 – \$5.00	\$5	30,000
10 – \$1.00 with “WIN ALL 10”	\$10	15,000
5 – \$2.00	\$10	7,500
1 – \$3.00 + 1 – \$7.00	\$10	7,500
1 – \$10.00	\$10	7,500
10 – \$2.00 with “WIN ALL 10”	\$20	7,500
1 – \$5.00 + 1 – \$15.00	\$20	3,750
1 – \$20.00	\$20	3,750
10 – \$5.00 with “WIN ALL 10”	\$50	10,000
5 – \$10.00	\$50	2,500
1 – \$50.00	\$50	2,500
10 – \$10.00 with “WIN ALL 10”	\$100	2,200
2 – \$50.00	\$100	750
1 – \$10.00 + 1 – \$30.00 + 3 – \$20.00	\$100	750
1 – \$100	\$100	750
4 – \$100	\$400	150
5 – \$100 + 1 – \$500.00	\$1,000	25
10 – \$100 with “WIN ALL 10”	\$1,000	25
10 – \$1000 with “WIN ALL 10”	\$10,000	2
1 – \$10,000	\$10,000	2

SECTION 5. (a) There shall be approximately three million (3,000,000) scratch-off tickets initially available in scratch-off game number 781.

(b) The odds of winning a prize in scratch-off game number 781 are approximately 1 in 4.57.

(c) All reorders of tickets for scratch-off game number 781 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
- (3) odds;

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as contained in the initial order.

SECTION 6. The last day to claim a prize in scratch-off game number 781 is October 31, 2006.

SECTION 7. This rule [document] shall expire November 30, 2006.

LSA Document #05-299(E)

Filed with Secretary of State: October 13, 2005, 10:00 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-301(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 063. Effective October 13, 2005.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 063, Silver Dollar Slots".

SECTION 2. Pull-tab tickets for pull-tab game number 063 shall sell for fifty cents (\$0.50) per ticket.

SECTION 3. Pull-tab game number 063 is a criss-cross game.

SECTION 4. A pull-tab ticket in pull-tab game number 063 shall contain fifteen (15) play symbols and play symbol captions arranged in a matrix of five (5) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 063 shall consist of the following possible play symbols:

- (1) A picture of three (3) gold bars
BAR-BAR-BAR
- (2) A picture of a stylized number seven (7)
SEVEN
- (3) A picture of a diamond
DIAMOND
- (4) A picture of a bell
BELL
- (5) A picture of a bunch of cherries
CHERRIES
- (6) A picture of a coin
COIN
- (7) A picture of a lemon
LEMON
- (8) A picture of an orange
ORANGE

SECTION 5. A line on a pull-tab ticket in pull-tab game number 063 is not a criss-cross winning combination unless all of the following are true:

(1) The play symbols and play symbol captions are in a horizontal, vertical, or diagonal line and are consistent with those specified in SECTION 4 of this rule [document].

(2) The three (3) play symbols and play symbol captions in the line are bisected by a red arrow.

(3) The prize amount appears in red ink on a yellow box appearing on the left side of the line.

(4) The play symbols and play symbol captions are in one (1) of the following combinations:

- (A) 3 – BAR-BAR-BAR
- (B) 3 – SEVENS
- (C) 3 – DIAMONDS
- (D) 3 – BELLS
- (E) 3 – CHERRIES

SECTION 6. Subject to SECTION 5 of this rule [document], the holder of a valid pull-tab ticket for pull-tab game number 063 containing a criss-cross winning combination is entitled to a prize the amount and the approximate number of which are as follows for each one million eight hundred thousand (1,800,000) pull-tab tickets in pull-tab game number 063:

Matching Play Symbol in Criss-Cross Winning Combination	Prize Amount	Approximate Number of Prizes
3-CHERRIES	\$0.05	187,530
3-BELLS	\$1	139,308
3-DIAMONDS	\$10	2,679
3-SEVENS	\$20	2,679
3-BAR-BAR-BAR	\$100	2,679

SECTION 7. A total of approximately one million eight hundred thousand (1,800,000) pull-tab tickets will be initially available for pull-tab game number 063. The odds of winning a prize in pull-tab game 063 are approximately 1 in 5.38. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 063 shall be sixty (60) days after the end of the game. End of game dates are available at any retailer location, on the commission's Web site at www.hoosierlottery.com, and via the commission's customer service center, which can be contacted toll-free at 1-800-955-5886.

LSA Document #05-301(E)

Filed with Secretary of State: October 13, 2005, 11:00 a.m.

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TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-302(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 059. Effective October 13, 2005.

SECTION 1. The name of this pull-tab game is “Pull-Tab Game Number 059, Elfis”.

SECTION 2. Pull-tab tickets for pull-tab game number 059 shall sell for fifty cents (\$0.50) per ticket.

SECTION 3. Pull-tab game number 059 is a criss-cross game.

SECTION 4. A pull-tab ticket in pull-tab game number 059 shall contain fifteen (15) play symbols and play symbol captions arranged in a matrix of five (5) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 059 shall consist of the following possible play symbols:

- (1) A picture of an elf dressed like Elvis holding a microphone
ELFIS
- (2) A picture of a Christmas tree
TREE
- (3) A picture of a car wrapped in a bow
CAR
- (4) A picture of an “ELFIS LIVE!” neon sign
SIGN
- (5) A picture of a hound dog wearing antlers
HOUND DOG
- (6) A picture of a teddy bear
TEDDY BEAR
- (7) A picture of a snowman
SNOWMAN
- (8) A picture of a candy cane
CANDY CANE

SECTION 5. A line on a pull-tab ticket in pull-tab game number 059 is not a criss-cross winning combination unless all of the following are true:

- (1) The play symbols and play symbol captions are in a horizontal, vertical, or diagonal line and are consistent with those specified in SECTION 4 of this rule [document].
- (2) The three (3) play symbols and play symbol captions in the line are bisected by a red arrow.
- (3) The prize amount appears in red ink on a yellow box appearing on the left side of the line.
- (4) The play symbols and play symbol captions are in one (1) of the following combinations:
 - (A) 3 – ELFIS
 - (B) 2 – ELFIS + 1 – TREE

- (C) 2 – ELFIS + 1 – CAR
- (D) 2 – ELFIS + 1 – SIGN
- (E) 2 – ELFIS + 1 – HOUND DOG

SECTION 6. Subject to SECTION 5 of this rule [document], the holder of a valid pull-tab ticket for pull-tab game number 059 containing a criss-cross winning combination is entitled to a prize in the amount and the approximate number of which are as follows for each eight hundred thousand (800,000) pull-tab tickets in pull-tab game number 059:

Matching Play Symbols in Criss-Cross Winning Combination	Prize Amount	Approximate Number of Prizes
2 – ELFIS + 1 – HOUND DOG	\$0.05	83,370
2 – ELFIS + 1 – SIGN	\$1	45,258
2 – ELFIS + 1 – CAR	\$5	5,955
2 – ELFIS + 1 – TREE	\$10	2,382
3 – ELFIS	\$100	1,191

SECTION 7. A total of approximately eight hundred thousand (800,000) pull-tab tickets will be initially available for pull-tab game number 059. The odds of winning a prize in pull-tab game 059 are approximately 1 in 5.79. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 059 shall be sixty (60) days after the end of the game. End of game dates are available at any retailer location, on the commission’s Web site at www.hoosierlottery.com, and via the commission’s customer service center, which can be contacted toll-free at 1-800-955-5886.

LSA Document #05-302(E)

Filed with Secretary of State: October 13, 2005, 11:00 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-303(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 060. Effective October 13, 2005.

SECTION 1. The name of this pull-tab game is “Pull-Tab Game Number 060, Body Shop”.

SECTION 2. Pull-tab tickets for pull-tab game number 060 shall sell for one dollar (\$1) per ticket.

SECTION 3. A pull-tab ticket in pull-tab game number

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060 shall contain three (3) play symbols consisting of various combinations of the front fender and tire, side door, and top and rear fender and tire of automobiles. One (1) play symbol shall appear under each of three (3) tabs.

SECTION 4. The play symbols in pull-tab game number 060 shall consist of the following possible play symbols:

- (1) A picture of the front fender of a red Corvette.
- (2) A picture of the side door of a red Corvette.
- (3) A picture of the rear fender of a red Corvette.
- (4) A picture of the front fender of a blue Chevy.
- (5) A picture of the side door of a blue Chevy.
- (6) A picture of the rear fender of a blue Chevy.
- (7) A picture of the front fender of a black GTO.
- (8) A picture of the side door of a black GTO.
- (9) A picture of the rear fender of a black GTO.
- (10) A picture of the front fender of a yellow T-Bird.
- (11) A picture of the side door of a yellow T-Bird.
- (12) A picture of the rear fender of a yellow T-Bird.
- (13) A picture of the front fender of an orange Mustang.
- (14) A picture of the side door of an orange Mustang.
- (15) A picture of the rear fender of an orange Mustang.

SECTION 5. A pull-tab ticket in pull-tab game number 060 is not a winning pull-tab ticket unless the following are true:

- (1) The exposed play symbols in the three (3) game play data areas result in the completion of a picture of the front, middle, and back of a red Corvette, a blue Chevy, a black GTO, a yellow T-Bird, or an orange Mustang.
- (2) The play symbols are consistent with those specified in SECTION 4 of this rule [document].
- (3) The prize amount appears in red ink on a yellow box located to the left side of the play symbol exposed under the bottom tab.

SECTION 6. Subject to SECTION 5 of this rule [document], the holder of a valid pull-tab ticket for pull-tab game number 060 containing a complete picture of an automobile is entitled to a prize based on the type of automobile depicted. The winning combinations, prize amounts, and approximate number of prizes are as follows:

Winning Combinations	Prize Amount	Approximate Number of Prizes
Orange Mustang	\$1	310,764
Yellow T-Bird	\$5	37,506
Black GTO	\$50	2,679
Blue Chevy	\$100	2,679
Red Corvette	\$100	2,679

SECTION 7. A total of approximately one million eight hundred thousand (1,800,000) pull-tab tickets will be initially available for pull-tab game number 060. The odds of winning a prize in pull-tab game number 060 are approximately 1 in 5.05. If additional pull-tab tickets are made

available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 060 shall be sixty (60) days after the end of the game. End of game dates are available at any retailer location, on the commission's Web site at www.hoosierlottery.com, and via the commission's customer service center, which can be contacted toll-free at 1-800-955-5886.

LSA Document #05-303(E)

Filed with Secretary of State: October 13, 2005, 11:00 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-304(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 064. Effective October 13, 2005.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 064, Bonus Stars".

SECTION 2. Pull-tab tickets for pull-tab game number 064 shall sell for twenty-five cents (\$0.25) per ticket.

SECTION 3. Pull-tab game number 064 is a match 3 game.

SECTION 4. A pull-tab ticket in pull-tab game number 064 shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 064 shall consist of the following possible play symbols:

- (1) A picture of a star
STAR
- (2) A picture of dollar bills
MONEY
- (3) A picture of a stylized "7"
SEVEN
- (4) A picture of a crown
CROWN
- (5) A picture of a diamond
DIAMOND
- (6) A picture of two (2) cherries
CHERRIES
- (7) A picture of a bell
BELL

SECTION 5. A row on a pull-tab ticket in pull-tab game number 064 which contains three (3) play symbols and play symbol captions is not a match 3 winning row unless all of the following are true:

(1) The play symbols and play symbol captions appear in one (1) of the following combinations:

- (A) 3 - STARS
- (B) 2 - STARS + 1 - MONEY
- (C) 2 - STARS + 1 - SEVEN
- (D) 2 - STARS + 1 - CROWN

(2) The play symbols and play symbol captions in the row are consistent with those specified in SECTION 4 of this document.

(3) The three (3) play symbols and play symbol captions in the row are bisected by a green arrow.

(4) The prize amount appears on the left side of the row in red ink on a yellow box.

SECTION 6. Subject to SECTION 5 of this document, the holder of a valid pull-tab ticket for pull-tab game number 064 containing a match 3 winning row is entitled to a prize the amount and the approximate number of which are as follows:

Matching Play Symbols	Prize Amount	Approximate Number of Prizes
2 – STARS + 1 – CROWN	\$0.50	406,315
2 – STARS + 1 – SEVEN	\$1	35,720
2 – STARS + 1 – MONEY	\$5	4,465
3 – STARS	\$50	4,465

SECTION 7. A total of approximately three million (3,000,000) pull-tab tickets will be initially available for pull-tab game number 064. The odds of winning a prize in pull-tab game 064 are approximately 1 in 6.65. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 064 shall be sixty (60) days after the end of the game. Game end dates are available on the commission’s Web site at www.hoosierlottery.com or may be obtained through the commission’s toll-free customer service number or from any pull-tab retailer.

*LSA Document #05-304(E)
Filed with Secretary of State: October 13, 2005, 11:00 a.m.*

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-305(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 782. Effective October 13, 2005.

SECTION 1. The name of this scratch-off game is

“Scratch-Off Game Number 782, \$100,000 Holiday Packages”.

SECTION 2. Scratch-off tickets in scratch-off game number 782 shall sell for five dollars (\$5) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 782 shall contain thirty-three (33) play symbols and play symbol captions arranged among three (3) separate and independent games all concealed under a spot of latex material.

(b) The game play data area located in the upper right side of each scratch-off ticket in scratch-off game 782 shall be labeled “GAME 1”. Eight (8) play symbols and play symbol captions shall appear in the box labeled “YOUR NUMBERS” arranged in pairs representing numbers and prize amounts. One (1) play symbol and play symbol caption representing a number shall appear in the box labeled “WINNING NUMBER”.

(c) The game play data area located in the upper left side of each scratch-off ticket in scratch-off game 782 shall be labeled “BONUS” and shall contain one (1) play symbol and play symbol caption.

(d) The game play data area located in the middle left side of each scratch-off ticket in scratch-off game 782 shall be labeled “GAME 2”. Nine (9) play symbols and play symbol captions representing pictures of holiday items shall appear [sic., in] a matrix of three (3) rows and three (3) columns. One (1) play symbol and play symbol caption representing a prize amount shall appear in the box labeled “PRIZE”.

(e) The game play data area located along the bottom of each scratch-off ticket in scratch-off game 782 shall be labeled “GAME 3”. Twelve (12) play symbols and play symbol captions shall appear in the “YOUR SYMBOLS” box arranged in pairs representing pictures of holiday items and prize amounts. One (1) play symbol and play symbol caption representing a number shall appear in the box labeled “LUCKY SYMBOL”.

SECTION 4. (a) The play symbols and play symbol captions in “GAME 1” on scratch-off tickets in scratch-off game number 782, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) 1
ONE
- (2) 2
TWO
- (3) 3
THR
- (4) 4
FOR
- (5) 5

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- FIV
- (6) 6
- SIX
- (7) 7
- SVN
- (8) 8
- EGT
- (9) 9
- NIN
- (10) 10
- TEN
- (11) 11
- ELVN
- (12) 12
- TWLV

(b) The play symbols and play symbol captions in “GAME 2” on scratch-off tickets in scratch-off game number 782, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) A picture of a snowflake
SNOFLK
- (2) A picture of a snowman
SNOMAN
- (3) A picture of a candle
CANDLE
- (4) A picture of a stocking
SOCK
- (5) A picture of a deer
DEER
- (6) A picture of a wreath
WREATH
- (7) A picture of a gingerbread man
COOKIE
- (8) A picture of a mitten
GLOVE
- (9) A picture of a candy cane
CANDY

(c) The play symbols and play symbol captions in “GAME 3” on scratch-off tickets in scratch-off game number 782, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) A picture of a row of tree lights
LIGHT
- (2) A picture of a sled
SLED
- (3) A picture of a bell
BELL
- (4) A picture of a horn
HORN
- (5) A picture of a star
STAR
- (6) A picture of a hat

- HAT
- (7) A picture of a drum
DRUM

(d) The play symbols and play symbol captions in the “BONUS” area on scratch-off tickets in scratch-off game number 782, including those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) TRY
AGAIN
- (2) A picture of a present
WIN \$100

(e) The play symbols and play symbol captions representing prize amounts on scratch-off tickets in scratch-off game number 782 shall consist of the following possible play symbols:

- (1) \$1.00
ONE
- (2) \$2.00
TWO
- (3) \$3.00
THREE
- (4) \$5.00
FIVE
- (5) \$10.00
TEN
- (6) \$15.00
FIFTEEN
- (7) \$20.00
TWENTY
- (8) \$25.00
TWY FIVE
- (9) \$40.00
FORTY
- (10) \$50.00
FIFTY
- (11) \$500
FIVE HUN
- (12) \$1,000
ONE THOU
- (13) \$4,000
FOUR THOU
- (14) \$10,000
TEN THOU
- (15) \$100,000
HUN THOU

SECTION 5. (a) The holder of a scratch-off ticket in scratch-off game number 782 shall remove the latex material covering the thirty-three (33) play symbols and play symbol captions.

(b) If, in “GAME 1”, any of the “YOUR NUMBERS” play symbols and play symbol captions match the play symbol

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and play symbol caption in the “WINNING NUMBER” box, the holder is entitled to a prize of the paired prize amount.

(c) If, in “GAME 2”, three (3) matching play symbols and play symbol captions are exposed in a row, column, or diagonal, the holder is entitled to the prize amount in the “PRIZE” box.

(d) If, in “GAME 3”, any of the “YOUR SYMBOLS” play symbols and play symbol captions match the play symbol and play symbol caption in the “LUCKY SYMBOL” box, the holder is entitled to a prize of the paired prize amount.

(e) If, in the “BONUS” game, the play symbol of a picture of a present and the play symbol caption “WIN \$100” are exposed, the holder is entitled to a prize of one hundred dollars (\$100).

SECTION 6. The winning play symbols, prize amounts, and number of winners in scratch-off game number 782 are as follows:

Winning Play Symbols	Prize Amount	Approximate Number of Winners
2-\$1.00 + 1-\$3.00	\$5	163,200
1-\$5.00	\$5	81,600
10-\$1.00	\$10	40,800
5-\$2.00	\$10	40,800
2-\$5.00	\$10	102,000
1-\$5.00 + 1-\$10.00	\$15	10,200
1-\$15.00	\$15	10,200
1-\$20.00	\$20	5,100
10-\$1.00 + 1-\$10.00	\$20	10,200
4-\$5.00	\$20	5,100
2-\$10.00	\$20	20,400
2-\$5.00 + 3-\$10.00	\$40	5,100
6-\$5.00 + 1-\$10.00	\$40	5,100
1-\$40.00	\$40	4,250
2-\$25.00	\$50	1,360
10-\$3.00 + 1-\$20.00	\$50	1,360
10-\$5.00	\$50	1,360
8-\$5.00 + 1-\$10.00	\$50	1,360
1-\$50.00	\$50	1,360
2-\$50.00	\$100	1,360
10-\$5.00 + 1-\$50.00	\$100	1,360
2-\$25.00 + 1-\$50.00	\$100	1,190
10-\$10.00	\$100	1,190
\$100 (bonus)	\$100	1,190
10-\$50.00	\$500	340
1-\$500	\$500	255
10-\$40.00 + 1-\$500 + \$100 (bonus)	\$1,000	119
1-\$1,000	\$1,000	119
1-\$4,000	\$4,000	10

8-\$500	\$4,000	10
2-\$1,000 + 2-\$4,000	\$10,000	10
1-\$10,000	\$10,000	10
1-\$100,000	\$100,000	6

SECTION 7. (a) There shall be approximately two million (2,000,000) scratch-off tickets initially available in scratch-off game number 782.

(b) The odds of winning a prize in scratch-off game number 782 are approximately 1 in 3.94.

(c) All reorders of tickets for scratch-off game number 782 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
- (3) odds;

as contained in the initial order.

SECTION 8. The last day to claim a prize in scratch-off game number 782 shall be October 28, 2006.

SECTION 9. This rule [document] shall expire on November 28, 2006.

LSA Document #05-305(E)

Filed with Secretary of State: October 13, 2005, 11:00 a.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #05-283(E)

DIGEST

Temporarily amends 405 IAC 5-24-4 to revise the Medicaid reimbursement methodology for payment of legend drugs. Temporarily amends 405 IAC 5-24-5 to revise the Medicaid reimbursement methodology for insulin. Makes other nonsubstantive changes. Authority: IC 4-22-2-37.1(a)(19); IC 12-8-1-12(c). Effective October 1, 2005.

SECTION 1. (405 IAC 5-24-4) (a) The office shall reimburse pharmacy providers for covered legend drugs at the lowest of the following:

- (1) The estimated acquisition cost (EAC) of the drug as of the date of dispensing, plus any applicable Medicaid dispensing fee.
- (2) The maximum allowable cost (MAC) of the drug as determined by the Health Care Financing Administration under 42 CFR 447.332 as of the date of dispensing, plus any applicable Medicaid dispensing fee.
- (3) The state maximum allowable cost (MAC) of the drug as

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determined by the office as of the date of dispensing, plus any applicable Medicaid dispensing fee.

(4) The provider's submitted charge, representing the provider's usual and customary charge for the drug, as of the date of dispensing.

(b) For purposes of this SECTION and SECTION 2(c) of this document, the Indiana Medicaid EAC is:

(1) for brand name drugs, ~~eighty-six and one-half eighty-four percent (86.5%)~~ **(84%)**; or

(2) for generic drugs, eighty percent (80%);

of the average wholesale price for each National Drug Code according to the Medicaid contractor's drug database file.

(c) The state MAC is equal to the average actual acquisition cost per drug adjusted by a multiplier of at least 1.0. The actual acquisition cost will be determined using pharmacy invoices and other information that the office determines is necessary. The purpose of the multiplier is to ensure that the applicable state MAC rate is sufficient to allow reasonable access by providers to the drug at or below the established state MAC rate.

(d) OMPP will review state MAC rates on an ongoing basis and adjust the rates as necessary to reflect prevailing market conditions and ensure reasonable access by providers to drugs at or below the applicable state MAC rate.

(e) Pharmacies and providers that are enrolled in ~~the Indiana Health Coverage Programs (HCP)~~ **Medicaid** are required, as a condition of participation, to make available and submit to the ~~OMPP office~~ or its designee acquisition cost information, product availability information, or other information deemed necessary by the ~~OMPP office~~ for the efficient operation of the pharmacy benefit ~~within the HCP~~ in the format requested by the ~~OMPP office~~ or its designee. Providers will not be reimbursed for this information and will submit information to the ~~OMPP office~~ or its designee within thirty (30) days following a request for such information unless the ~~OMPP office~~ or its designee grants an extension upon written request of the pharmacy or provider.

SECTION 2. (405 IAC 5-24-5) (a) The office shall reimburse pharmacy providers for the cost and dispensation of nonlegend (over-the-counter) drugs included on the Medicaid nonlegend drug formulary as provided for in this SECTION.

(b) The office shall reimburse for nonlegend drugs, **except insulin**, at the lowest of the following rates:

(1) One hundred fifty percent (150%) of the state maximum allowable cost, as set out in the Medicaid Pharmacy Provider Manual and amendments thereto, for the drug in the quantity dispensed, as of the date dispensed.

(2) The provider's submitted charge, representing the provider's usual and customary charge for the drug, as of the date of dispensing.

(c) The office shall reimburse for insulin at the estimated acquisition cost (EAC) of the drug, plus any applicable Medicaid dispensing fee. For purposes of this subsection, EAC is defined in SECTION 1(b) of this document.

SECTION 3. **This document expires December 29, 2005.**

LSA Document #05-283(E)

Filed with Secretary of State: September 30, 2005, 11:20 a.m.

**TITLE 405 OFFICE OF THE SECRETARY OF
FAMILY AND SOCIAL SERVICES**

LSA Document #05-76

Under IC 12-8-3-4.4, LSA Document #05-76, printed at 28 IR 3652, was adopted by the Secretary of Family and Social Services Administration on October 6, 2005. This rule amends 405 IAC 5-24-4 to revise the Medicaid reimbursement methodology for payment of legend drugs and amends 405 IAC 5-24-5 to amend the Medicaid reimbursement methodology for insulin. Makes other nonsubstantive changes. Effective 30 days after filing with the Secretary of State. The rule that was adopted is a different version than the proposed rule, which was published in the Indiana Register on September 1, 2005.

Notice of Intent to Adopt a Rule

TITLE 240 STATE POLICE DEPARTMENT

LSA Document #05-287

Under IC 4-22-2-23, the State Police Department intends to adopt a rule concerning the following:

OVERVIEW: Amends 240 IAC 1-4-3 concerning the maximum age at appointment for a police employee and the requirement for postsecondary education. Amends 240 IAC 1-4-24.1 concerning the maximum age for mandatory retirement for police employees. Amends 240 IAC 1-5-5 concerning reappointment of persons who withdraw before completion of two years of appointment. Questions or comments concerning the proposed rules may be directed to: Indiana State Police, ATTENTION: Major Anthony Sommer, Indiana Government Center-North, 100 North Senate Avenue, Room N340, Indianapolis, Indiana 46204 or by electronic mail at tsommer@isp.state.in.us. Statutory authority: IC 10-11-2-10.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Anthony Sommer, Chief Counsel
Indiana State Police
100 N. Senate Avenue, IGCN N340
Indianapolis, IN 46204
(317) 232-8226
tsommer@isp.state.in.us

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #05-293

Under IC 4-22-2-23, the Office of the Secretary of Family and Social Services intends to adopt a rule concerning the following:

OVERVIEW: Adds 405 IAC 2-1-4 to add Medicare application as a condition of Medicaid eligibility for individuals applying for Medicaid who appear likely to meet Medicare eligibility requirements. Sets forth time limit for those who are currently eligible for Medicaid to apply for Medicare, if it appears likely that the individual would be eligible for Medicare. Statutory authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Cindy Stamper
Manager, Medicaid Eligibility
Division of Family Resources
Indiana Family and Social Services Administration
Indiana Government Center-South
402 W. Washington Street, Rm W363
Indianapolis, IN 46204
(317) 232-4966
Cindy.Stamper@fssa.in.gov

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-288

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 312 IAC 16-1-1 to delete a citation to 312 IAC 17-3, the enabling statute for which was repealed by SB 442. Amends 312 IAC 16-1 to add definitions for eight (8) terms utilized within IC 14-37-7 and 312 IAC 16-5-4. Public questions and comments may be sent to the Division of Hearings, Natural Resources Commission, Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana 46204, by e-mail at jkane@nrc.in.gov, or by telephone at (317) 232-4699. Statutory authority: IC 14-10-2-4; IC 14-37-3.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Brock A. Mayes
Department of Natural Resources
Division of Reclamation
R.R. #2 Box 129
Jasonville, Indiana 47438
(812) 665-2207
bmayes@reclamation.dnr.state.in.us

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #05-294

Under IC 4-22-2-23, the Office of the Secretary of Family and Social Services intends to adopt a rule concerning the following:

OVERVIEW: Adds provisions to Medicaid provider enrollment requirements to specify criteria for the Office of Medicaid Policy and Planning to enter into an agreement with a nursing facility and conditions for reimbursement when an existing provider makes changes in certified beds. Statutory authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-11.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Karen Smith Filler
Manager, Long Term Care Reimbursement and Level of Care
Indiana Family and Social Services Administration
Office of Medicaid Policy and Planning
Indiana Government Center-South
402 W. Washington Street
Indianapolis, IN 46204
(317) 232-4650
Karen.Filler@fssa.in.gov

**TITLE 511 INDIANA STATE BOARD OF
EDUCATION**

LSA Document #05-285

Under IC 4-22-2-23, the Indiana State Board of Education intends to adopt a rule concerning the following:

OVERVIEW: Adds 511 IAC 6.1-5-3.6, minimum middle school level curriculum requirements. Repeals 511 IAC 6.1-5-3.5, middle level curriculum requirements. Statutory authority: IC 20-19-2-8; IC 20-31-4-17.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Jeffery P. Zaring, State Board Administrator
Indiana Department of Education
Room 229, State House
Indianapolis, IN 46204
(317) 232-6622
jzaring@doe.state.in.us

**TITLE 511 INDIANA STATE BOARD OF
EDUCATION**

LSA Document #05-286

Under IC 4-22-2-23, the Indiana State Board of Education intends to adopt a rule concerning the following:

OVERVIEW: Adds rules regarding the establishment and enforcement of standards and guidelines concerning the safety of students participating in cheerleading activities. Statutory authority: IC 20-19-2-8.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Jeffery P. Zaring, State Board Administrator
Indiana Department of Education
Room 229, State House
Indianapolis, IN 46204
(317) 232-6622
jzaring@doe.state.in.us

TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #05-290

Under IC 4-22-2-23, the State Board of Dentistry intends to adopt a rule concerning the following:

OVERVIEW: Amends 828 IAC 0.5-1 to include definitions of “competent office personnel”, “delegated procedures”, and “expanded functions dental assistant”. Adds 828 IAC 6 concerning

competent office personnel, expanded functions dental assistants, qualifications of competent office personnel, requirements for delegation of procedures to competent office personnel, duties that may be delegated to competent office personnel, duties that may not be delegated to competent office personnel, responsibilities of the delegating dentist, identification of the competent office personnel, and use of job titles by competent office personnel. Effective 30 days after filing with the Secretary of State. Public comments are invited and may be directed to the Indiana State Board of Dentistry, Attention: Director, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204 or by e-mail to smazo@pla.in.gov. Statutory authority: IC 25-14-1-13; IC 25-14-1-23.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Shelly L. Mazo
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-2007
smazo@pla.in.gov

**TITLE 844 MEDICAL LICENSING BOARD OF
INDIANA**

LSA Document #05-291

Under IC 4-22-2-23, the Medical Licensing Board of Indiana intends to adopt a rule concerning the following:

OVERVIEW: Amends 844 IAC 4-4.5-7 to include as an additional requirement for licensure the submission by each applicant of the applicant’s core credentials profile as prepared by the Federation Credentials Verification Service (FCVS) of the Federation of State Medical Boards. Effective 30 days after filing with the Secretary of State. Public comments are invited and may be directed to the Medical Licensing Board of Indiana, Attention: Michael Rinebold, Director, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204 or by e-mail to mrinebold@pla.in.gov. Statutory authority: IC 25-22.5-2-7.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Michael Rinebold
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-2011
mrinebold@pla.in.gov

Notice of Intent to Adopt a Rule

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

LSA Document #05-295

Under IC 4-22-2-23, the State Board of Registration for Professional Engineers intends to adopt a rule concerning the following:

OVERVIEW: Amends 864 IAC 1.1-4.1-7 to implement rule changes based on SEA 139-2005 (P.L.194-2005) to change the number of examination attempts for registration as a professional engineer. Amends 864 IAC 1.1-4.1-8 to implement rule changes based on SEA 139-2005 (P.L.194-2005) to bring the termination of application in conformity with the examination attempts for registration as a professional engineer and certification as an engineering intern. Amends 864 IAC 1.1-4.1-9 to implement rule changes based on SEA 139-2005 (P.L.194-2005) to change the number of examination attempts for registration as an engineering intern. Questions or comments concerning the proposed rule may be directed to: State Board of Registration for Professional Engineers, ATTENTION: Board Director, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204 or by electronic mail at ajones@pla.in.gov. Statutory authority: IC 25-31-1-7.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Angela Smith Jones
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3022
ajones@pla.in.gov

**TITLE 50 DEPARTMENT OF LOCAL
GOVERNMENT FINANCE**

Proposed Rule
LSA Document #05-144

DIGEST

Adds 50 IAC 22 to establish procedures for application and administration of the investment deduction established by P.L.193-2005 (SEA 1-2005). Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

The Department cannot accurately estimate the number of small businesses that will be directly affected by the investment deduction governed by this rule. The investment deduction provided under IC 6-1.1-12.4 and implemented by this rule will be available for a majority of small businesses that make a qualified investment within Indiana by developing, redeveloping, or rehabilitating real property or purchasing new personal property. Certain facilities are expressly excluded from this deduction by statute, and a listing of those facilities can be found at IC 6-1.1-12.1-3(e).

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Department estimates that this rule will require minimal reporting, record keeping, or administrative costs of small businesses seeking to receive the investment deduction. A small business seeking the deduction would have to file either Form RPID-1 with the township assessor or a Schedule PPID-1 attached to their annual personal property return.

Estimated Total Annual Economic Impact on Small Businesses:

The Department estimates that there will be minimal impact on small businesses as a result of compliance with this rule.

- Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law: There are no compliance costs that need to be justified for this proposed rule. Small businesses will be required to file a form to claim the deduction, and completion of said form should result in minimal administrative cost.
- Supporting Data, Studies, and Analyses: The Department reviewed the Fiscal Impact Statement for Senate Enrolled Act 1-2005 (P.L.193-2005), prepared by Legislative Services Agency. The Department has not relied on any other formal studies in reaching these estimates.

Regulatory Flexibility Analysis of Alternative Methods:

Due to the fact that this rule is mandated by P.L.193-2005 (SEA 1-2005), the Department has performed minimal analysis of alternatives to this proposed rule.

- Explanation of Preliminary Determination: The adoption of this rule was mandated by P.L.193-2005 (SEA 1-2005) to

implement investment deduction.

- Supporting Data, Studies, and Analyses: The Department reviewed the Fiscal Impact Statement for Senate Enrolled Act 1-2005 (P.L.193-2005), prepared by Legislative Services Agency. The Department did not rely on any other formal studies in its decision not to employ alternatives to rulemaking.

50 IAC 22

SECTION 1. 50 IAC 22 IS ADDED TO READ AS FOLLOWS:

ARTICLE 22. INVESTMENT DEDUCTION

Rule 1. General Provisions

50 IAC 22-1-1 Purpose

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4

Sec. 1. The purpose of this article is to establish formal procedures to govern the application and administration of the investment deduction established under IC 6-1.1-12.4. The:

- (1) procedures;
- (2) procedural requirements; and
- (3) standards;

established by this article are intended to ensure that the investment deduction is properly administered. (*Department of Local Government Finance; 50 IAC 22-1-1*)

50 IAC 22-1-2 Applicability

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4

Sec. 2. This article applies to taxpayers applying for and local assessing officials exercising authority under IC 6-1.1-12.4 in administering the investment deduction applicable to real and personal property. (*Department of Local Government Finance; 50 IAC 22-1-2*)

Rule 2. Definitions

50 IAC 22-2-1 Applicability

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4

Sec. 1. The definitions in this rule apply throughout this article. (*Department of Local Government Finance; 50 IAC 22-2-1*)

50 IAC 22-2-2 “Creates or retains employment” defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4

Sec. 2. (a) For real property, “creates or retains employment” means a development, redevelopment, or rehabilita-

tion of the real property that:

(1) produces new jobs that were not previously performed; or
(2) maintains existing jobs performed at a level equal to at least the number of jobs before the development, redevelopment, or rehabilitation of the real property; by employees of the owner of the real property in Indiana. The term may also refer to a development, redevelopment, or rehabilitation of real property that keeps an existing business in operation that otherwise would have ceased to maintain operations in Indiana without the development, redevelopment, or rehabilitation even though the total number of jobs that exists after the development, redevelopment, or rehabilitation may be less than before the development, redevelopment, or rehabilitation occurred.

(b) For personal property, “creates or retains employment” means a purchase of personal property other than inventory that:

(1) produces new jobs that were not previously performed; or
(2) maintains existing jobs performed at a level equal to at least the number of jobs before the purchase of the personal property; by employees of the owner of the personal property in Indiana. The term may also refer to a purchase of personal property other than inventory that keeps an existing business in operation that otherwise would have ceased to maintain operations in Indiana without the purchase of the personal property, even though the total number of jobs that exists after the purchase of the personal property may be fewer than before the purchase of personal property occurred. *(Department of Local Government Finance; 50 IAC 22-2-2)*

50 IAC 22-2-3 “Department” defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4; IC 6-1.1-30-1.1

Sec. 3. “Department” means the department of local government finance. *(Department of Local Government Finance; 50 IAC 22-2-3)*

50 IAC 22-2-4 “Development” defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-6

Sec. 4. “Development” means construction that improves a parcel of land. *(Department of Local Government Finance; 50 IAC 22-2-4)*

50 IAC 22-2-5 “Inventory” defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-3

Sec. 5. “Inventory” has the meaning set forth in 50 IAC 4.2-5-1. *(Department of Local Government Finance; 50 IAC 22-2-5)*

50 IAC 22-2-6 “Investment deduction” defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4

Sec. 6. “Investment deduction” means the deduction for real or personal property provided in IC 6-1.1-12.4. *(Department of Local Government Finance; 50 IAC 22-2-6)*

50 IAC 22-2-7 “Official” defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-1; IC 6-1.1-12.4-6

Sec. 7. “Official” means any of the following:

- (1) A county auditor.
- (2) A county assessor.
- (3) A township assessor.

(Department of Local Government Finance; 50 IAC 22-2-7)

50 IAC 22-2-8 “Personal property” defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-1-11; IC 6-1.1-12.4

Sec. 8. “Personal property” has the meaning set forth in IC 6-1.1-1-11, except, for purposes of this article, the term excludes inventory. *(Department of Local Government Finance; 50 IAC 22-2-8)*

50 IAC 22-2-9 “Purchase” defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-3

Sec. 9. “Purchase” means the act of obtaining title to real or personal property. A person is deemed to be obtaining title to the property if:

- (1) title to the property is in the person’s name; or
- (2) the person has assumed a legal obligation to pay the property taxes on the property.

(Department of Local Government Finance; 50 IAC 22-2-9)

50 IAC 22-2-10 “Real property” defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-1-15; IC 6-1.1-12.4

Sec. 10. “Real property” has the meaning set forth in IC 6-1.1-1-15, except, for purposes of this article, the term excludes land. *(Department of Local Government Finance; 50 IAC 22-2-10)*

50 IAC 22-2-11 “Redevelopment” defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-6; IC 6-1.1-12.1-1

Sec. 11. “Redevelopment” means the construction of new improvements on either of the following:

- (1) Unimproved real estate.
- (2) Real estate upon which a prior existing improvement is demolished to allow for new construction.

(Department of Local Government Finance; 50 IAC 22-2-11)

50 IAC 22-2-12 "Rehabilitation" defined

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-6

Sec. 12. "Rehabilitation" means either of the following:
(1) The remodeling, repair, or betterment of property in any manner.

(2) Any enlargement or extension of an improvement.
(Department of Local Government Finance; 50 IAC 22-2-12)

Rule 3. Property Eligible for the Investment Deduction

50 IAC 22-3-1 Real property eligible

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.1-3; IC 6-1.1-12.4-2

Sec. 1. (a) In order to be eligible for the investment deduction:

- (1) real property must meet the requirements of IC 6-1.1-12.4-2; and**
- (2) the real property owner must timely file a notice to claim the investment deduction.**

(b) The investment deduction does not apply to a facility listed in IC 6-1.1-12.1-3(e).

(c) For purposes of the limitation of the investment deduction to two million dollars (\$2,000,000) in assessed value for real property for the assessment year, a real property owner is limited to a total two million dollar (\$2,000,000) deduction in assessed value for all eligible development, redevelopment, or rehabilitation on all real property owned within a county. The two million dollar (\$2,000,000) limitation of the investment deduction shall not be applied individually to each parcel of property owned within a county by the real property owner. *(Department of Local Government Finance; 50 IAC 22-3-1)*

50 IAC 22-3-2 Personal property eligible

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-3

Sec. 2. (a) In order to be eligible for the investment deduction:

- (1) personal property must meet the requirements of IC 6-1.1-12.4-3; and**
- (2) the personal property owner must claim the investment deduction on a timely filed:**
 - (A) annual; or**
 - (B) amended;****personal property tax return.**

(b) For purposes of the limitation of the investment deduction to two million dollars (\$2,000,000) in assessed value for personal property for the assessment year, a personal property owner is limited to a total two million dollar (\$2,000,000) deduction in assessed value for all

eligible personal property owned within the county. The two million dollar (\$2,000,000) limitation of the investment deduction shall not be applied individually to each personal property return filed in the county by the personal property owner. *(Department of Local Government Finance; 50 IAC 22-3-2)*

50 IAC 22-3-3 Ineligibility of property located in an allocation area

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4; IC 6-1.1-21.2-3

Sec. 3. Real property and personal property located in an area that has been designated as an allocation area, as defined in IC 6-1.1-21.2-3, are not eligible for the investment deduction. *(Department of Local Government Finance; 50 IAC 22-3-3)*

50 IAC 22-3-4 Other deductions may not be claimed in conjunction with investment deduction

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-5

Sec. 4. If the investment deduction has been claimed for an assessment year, all other statutory deductions as set forth in IC 6-1.1-12.4-5 shall not be claimed on the:

- (1) development, redevelopment, or rehabilitation of real property; or**
 - (2) purchase of personal property;**
- subject to the investment deduction.** *(Department of Local Government Finance; 50 IAC 22-3-4)*

Rule 4. Length of Investment Deduction

50 IAC 22-4-1 Length of investment deduction for real property

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2

Sec. 1. The investment deduction on eligible real property:

- (1) is first available in the year in which the increase in assessed value resulting from the development, redevelopment, or rehabilitation occurs; and**
- (2) continues for the following two (2) years.**

(Department of Local Government Finance; 50 IAC 22-4-1)

50 IAC 22-4-2 Length of investment deduction for personal property

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-3

Sec. 2 The investment deduction on eligible personal property:

- (1) is first available in the year in which the increase in assessed value resulting from the purchase of the personal property occurs; and**
- (2) continues for the following two (2) years.**

Proposed Rules

(Department of Local Government Finance; 50 IAC 22-4-2)

Rule 5. Amount of Investment Deduction

50 IAC 22-5-1 Amount of investment deduction for real property

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2

Sec. 1. The annual amount of the investment deduction on eligible real property is calculated using the formula set forth in IC 6-1.1-12.4-2(c). *(Department of Local Government Finance; 50 IAC 22-5-1)*

50 IAC 22-5-2 Amount of investment deduction for personal property

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-3

Sec. 2. The annual amount of the investment deduction on eligible personal property is calculated using the formula set forth in IC 6-1.1-12.4-3(c). *(Department of Local Government Finance; 50 IAC 22-5-2)*

Rule 6. Effect of Assessment Changes on the Investment Deduction

50 IAC 22-6-1 Decreases in assessed value

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-3

Sec. 1. If the assessed value of real property or personal property receiving the investment deduction is subsequently decreased as the result of an appeal, or by other action of an assessing official, the amount of the investment deduction shall be adjusted by the township assessor to reflect the percentage decrease that results from the change and submitted to the county auditor. Other actions of an assessing official include, but are not limited to, the following:

- (1) General reassessment.
- (2) Annual adjustments.
- (3) The processing of an amended personal property return.

(Department of Local Government Finance; 50 IAC 22-6-1)

50 IAC 22-6-2 Increases in assessed value

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-3

Sec. 2. If the assessed value of real property or personal property receiving the investment deduction is subsequently increased as the result of an appeal, or by other action of an assessing official, the amount of the investment deduction shall be adjusted by the township assessor to reflect the percentage increase that results from the change and submitted to the county auditor. Other actions of an assessing official include, but are not limited to, changes

made to the assessment as a result of any of the following:

- (1) A general reassessment.
- (2) An annual adjustment.
- (3) The processing of an amended personal property return.

(Department of Local Government Finance; 50 IAC 22-6-2)

Rule 7. Claiming the Investment Deduction

50 IAC 22-7-1 Procedure for claiming the investment deduction on real property

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2; IC 6-1.1-4-22

Sec. 1. (a) A property owner must claim the real property investment deduction by completing a notice on Form RPID-1 for each year the investment deduction is claimed.

(b) Form RPID-1 is available:

- (1) from the county assessor; and
- (2) on the department's Web site at www.in.gov/dlgf/.

(c) The completed Form RPID-1 is to be filed with the township assessor of the township in which the property is located. The completed Form RPID-1 must be filed:

- (1) by May 10 of each year; or
- (2) within thirty (30) days of receipt of a notice of new assessment or reassessment given under IC 6-1.1-4-22;

whichever is later. *(Department of Local Government Finance; 50 IAC 22-7-1)*

50 IAC 22-7-2 Procedure for claiming the investment deduction on personal property

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-3

Sec. 2. (a) A property owner must claim the personal property investment deduction by completing Schedule PPID-1 and attaching that schedule to a timely filed:

- (1) personal; or
- (2) amended personal;

property tax return.

(b) Schedule PPID-1 is available:

- (1) at the offices of the:
 - (A) county assessor; and
 - (B) township assessor; and
- (2) on the department's Web site at www.in.gov/dlgf/.

(c) The completed Schedule PPID-1 shall be:

- (1) attached to the property owner's:
 - (A) personal; or
 - (B) amended personal;property tax return; and
- (2) filed with the township assessor of the township in which the property is located.

(Department of Local Government Finance; 50 IAC 22-7-2)

Rule 8. Duties of the Township Assessor

50 IAC 22-8-1 Processing of real property investment deduction

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2

Sec. 1. (a) A township assessor receiving a Form RPID-1 from a property owner shall inform the county auditor of the following:

- (1) The real property eligible for the investment deduction as contained in the notice filed by the taxpayer.**
- (2) The investment deduction amount.**

(b) The township assessor shall accomplish the tasks referenced in subsection (a) by doing the following:

- (1) Completing the township assessor’s section of the RPID-1.**
- (2) Sending a duplicate of the completed form to the county auditor:**
 - (A) not later than July 1 of the assessment year; or**
 - (B) within thirty (30) days after receipt of a properly filed application;****whichever is later.**

(Department of Local Government Finance; 50 IAC 22-8-1)

50 IAC 22-8-2 Processing of personal property investment deduction

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-3

Sec. 2. (a) A township assessor receiving a Schedule PPID-1 attached to a property owner’s annual personal property tax return or amended personal property tax return shall do the following:

- (1) Identify the personal property eligible for the investment deduction.**
- (2) Inform the county auditor of the investment deduction amount.**

(b) The township assessor shall accomplish the tasks referenced in subsection (a) by doing the following:

- (1) Completing the appropriate section of the first page of the:**
 - (A) personal property return (Form 102 or 103); or**
 - (B) amended personal property return.**
- (2) Sending a duplicate of the first page to the county auditor:**
 - (A) not later than July 1 of the assessment year; or**
 - (B) within thirty (30) days after receipt of a properly filed schedule;****whichever is later.**

(Department of Local Government Finance; 50 IAC 22-8-2)

Rule 9. County Auditor’s Responsibilities

50 IAC 22-9-1 Application of real property investment deduction

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2

Sec. 1. A county auditor receiving a completed Form RPID-1 from a township assessor shall do the following:

- (1) Make the investment deduction in the amount certified by the township assessor.**
- (2) Notify the county property tax board of appeals of the amount of the investment deduction granted.**

(Department of Local Government Finance; 50 IAC 22-9-1)

50 IAC 22-9-2 Application of personal property investment deduction

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-3

Sec. 2. A county auditor receiving the first page of a personal property tax return (Form 102 or 103) showing a personal property investment deduction from a township assessor shall do the following:

- (1) Make the investment deduction in the amount certified by the township assessor.**
- (2) Notify the county property tax board of appeals of the amount of the investment deduction granted.**

(Department of Local Government Finance; 50 IAC 22-9-2)

Rule 10. Appeal Rights

50 IAC 22-10-1 Appeal rights of officials

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4

Sec. 1. (a) An official may review an investment deduction to determine whether the property has created or retained jobs as set forth in IC 6-1.1-12.4-6 and this article.

(b) An official who determines that the creation or retention of employment has not occurred shall follow the notification and hearing procedures outlined in IC 6-1.1-12.4-6 through IC 6-1.1-12.4-9.

(c) The review referenced in subsection (a) is only to determine the eligibility of property for the investment deduction. An official may not use the statutory procedure in IC 6-1.1-12.4-6 through IC 6-1.1-12.4-9 to appeal the amount of the investment deduction. (Department of Local Government Finance; 50 IAC 22-10-1)

50 IAC 22-10-2 Appeal rights of taxpayers

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-10

Sec. 2. If a property owner receives notice from an official that disallows in whole or in part the amount of the invest-

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ment deduction claimed on either a Form RPID-1 or Schedule PPID-1, the total or partial disallowance:

- (1) shall be treated as a termination; and
- (2) may be appealed under IC 6-1.1-12.4-10.

(Department of Local Government Finance; 50 IAC 22-10-2)

Rule 11. Change of Ownership

50 IAC 22-11-1 Change of ownership

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-3

Sec. 1. (a) If there is a change in ownership of property that has been granted an investment deduction, the investment deduction shall continue to apply to the property.

(b) The amount of the investment deduction on the property shall continue to be calculated using the formula set forth in:

- (1) IC 6-1.1-12.4-2; or
- (2) IC 6-1.1-12.4-3.

(Department of Local Government Finance; 50 IAC 22-11-1)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 2, 2005 at 10:00 a.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room N1045, Indianapolis, Indiana the Department of Local Government Finance will hold a public hearing on a proposed new rule governing the application and administration of the investment deduction provided in IC 6-1.1-12.4.

This proposed rule does not impose any requirement or costs on a regulated entity not expressly required by state or federal law.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058(B) and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Dart
General Counsel
Department of Local Government Finance

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Proposed Rule

LSA Document #05-253

DIGEST

Repeals 50 IAC 13 regarding land valuation because 50 IAC 13 is inconsistent with 50 IAC 2.3, which incorporates by reference the Real Property Assessment Manual and Real

Property Assessment Guidelines. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

The Department estimates that zero small businesses will be directly affected by this rule. Land valuation will continue to be set in accordance with the Real Property Assessment Manual and the Real Property Assessment Guidelines.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Department estimates that there will be no annual reporting, record keeping, or administrative costs incurred by small businesses to comply with this rule.

Estimated Total Annual Economic Impact on Small Businesses:

The Department estimates that there will be no impact on small businesses as a result of compliance with this rule.

- Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law: There are no compliance costs that need to be justified for this proposed rule.
- Supporting Data, Studies, and Analyses: The Department has not relied on any studies in reaching these estimates.

Regulatory Flexibility Analysis of Alternative Methods:

Due to the fact that this rule is being repealed because it conflicts with 50 IAC 2.3, the Department has not analyzed alternatives to this proposed rule.

- Explanation of Preliminary Determination: The repeal of this rule is purely technical and is necessary to eliminate inconsistency in the law.
- Supporting Data, Studies, and Analyses: The Department did not rely on any studies in its decision not to employ alternatives to rulemaking.

50 IAC 13

SECTION 1. 50 IAC 13 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 7, 2005 at 10:00 a.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room N1045, Indianapolis, Indiana the Department of Local Government Finance will hold a public hearing on the proposed repeal of 50 IAC 13 regarding land valuation because 50 IAC 13 is inconsistent with 50 IAC 2.3, which incorporates by reference the Real Property Assessment Manual and Real Property Assessment Guidelines.

This proposed rule does not impose any requirement or costs on a regulated entity not expressly required by state or federal law.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058(B)

and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Amber Merlau St. Amour
Staff Attorney
Department of Local Government Finance

**TITLE 105 INDIANA DEPARTMENT OF
TRANSPORTATION**

Proposed Rule
LSA Document #05-258

DIGEST

Adds 105 IAC 14 to adjust the current toll rate structure on the Indiana Toll Road. Effective April 3, 2006.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Indiana Code 4-22-2.1-5 requires an agency to submit to the Legislative Services Agency (LSA) and the Indiana Economic Development Corporation (IEDC) a statement of the economic impact of any proposed rule with an economic impact on small businesses. The IEDC is required to review the rule and submit written comments to the agency no later than seven days before the public hearing. The analysis of the rule by the Indiana Department of Transportation (INDOT) found there to be an economic impact of approximately \$1.4 million on small businesses. However, the proposed rule as authorized by IC 8-9.5-8-8 is needed to fund projects in toll road counties as current revenue does not allow the toll road to build these needed projects.

IC 4-22-2.1-5(a)(1):

An estimate of the number of small businesses, classified by industry sector that will be subject to the proposed rules: It is estimated that 11,750 Indiana small businesses currently use the toll road. All of these businesses, if they choose to continue using the toll road, will be subject to the proposed rules. Due to the anonymous nature of travel on the toll road, it is not possible to classify these small businesses by industry sector.

IC 4-22-2.1-5(a)(2):

An estimate of the average annual reporting, record keeping, and other administrative costs that small business will incur to comply with the proposed rules: INDOT estimates that the proposed rules will impose no additional costs to small business as those costs relate to reporting, record keeping, and administration.

Although companies that apply for special permits under the Indiana Finance Authority (IFA) rules must maintain current lists of all active drivers permitted for longer combination vehicles (LCV) operations on the toll road and provide these lists to INDOT upon request, IFA estimates that this record keeping will result in no additional cost. As for changes to the

driver requirements for LCV operators under the IFA rules (for example, obtaining a commercial driver's license with appropriate endorsements), these requirements impose no additional costs because they are already required by current law. IFA also estimates that requiring the stencil of an identification number on a truck-tractor of a company permitted for LCV operations will result in no additional cost.

IC 4-22-2.1-5(a)(3):

An estimate of the total annual economic impact that compliance with the proposed rule will have on all small business subject to the rules: Approximately \$1.4 million.

IC 4-22-2.1-5(a)(4):

A statement justifying any requirement or cost that is imposed on small business under the rules, and is not expressly required by either the statute authorizing the agency to adopt the rule or other statute or federal law. This statement must include a reference to any data, studies, or analyses relied upon by the agency in determining the imposition of the requirement or cost is necessary.

The Indiana Toll Road relies on its tolls collected from users to pay for its debt payments, maintenance costs, and operating costs. The impact on small businesses is estimated to be approximately \$1.4 million. The total impact on all users of the toll road is estimated to be approximately \$72 million.

Therefore, the impact on small business is approximately 2% of the total impact to users of the toll road. This is only an estimate of the impact on small business. Due to the anonymous nature of travel on the toll road, it is difficult to determine, with any degree of certainty, what the actual impact on small business will be.

INDOT and IFA did review exempting small business from part of the costs imposed by this rule. Two axle commercial delivery trucks are often used by small businesses. Under the current toll road rate schedules those delivery trucks pay a higher toll than passenger cars. The proposed rule puts those delivery trucks in the same classification as passenger cars. Currently two axle trucks pay tolls that are 58% more than passenger cars. Under the proposed rules, cars and two axle trucks will pay the same toll. Savings to small business are estimated at \$106,000 or 8% of the economic impact (approximately \$1.4 million). Additionally, small business will benefit from the upgrades in maintenance and new construction on the toll road and in the toll road counties.

In addition to the toll rate increase, IFA is proposing to change the special hauling permit fees in the IFA rule. However, these permit fees do not normally apply to small businesses given that the type of oversize goods that require these hauling permits to be transported are manufactured and transported by large companies.

Generally, other than the toll rates and the revision to the special hauling permit provisions, the amendments to the IFA rules are necessary to reflect current law, usage, and circumstance.

The Indiana Toll Road has needs for major projects on or near the toll road for widening and interchange projects as well

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as general reconstruction of aging highway surfaces. These needs cannot be met with the current budget. In addition, since the toll road serves as a critical transportation link to the urbanized areas in northern Indiana, a high priority needs to be placed on maintaining adjacent state and local routes as well to attract commerce that results in additional toll road trips. An increase in the toll rates can address both the toll road's needs as well as improvements to state and local transportation needs in toll road counties. Current revenue does not allow the toll road to build these needed projects on and near the toll road.

Data, studies, and analyses relied upon by INDOT and IFA in determining that the imposition of any requirement or cost is necessary are:

- A) Capital Improvement Projects Program, May 4, 2005, RQAW.
- B) Rate Review and Revenue Projections Study August 2005-Wilbur Smith Associates.
- C) MAJOR MOVES: INDOT Ten Year Draft Major New Construction Program.

IC 4-22-2.1-5(a)(5):

A regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule, including:

INDOT and IFA considered less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. The first item considered was the establishment of less stringent compliance or reporting requirements for small businesses. However, the agencies found that these proposed rules established no reporting requirements and no additional compliance requirements (beyond paying the tolls).

INDOT and IFA then considered the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. The agencies found that because the uniformity provisions under the outstanding bond documents do not allow customers to be charged different toll rates within a vehicle class, the new rate increase must be applicable to all customers of the Indiana Toll Road on the same date.

The agencies found that the consolidation or simplification of compliance or reporting requirements for small businesses and the establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities were inapplicable to this rule.

INDOT and IFA considered exempting small business from part of the costs imposed by this rule. Two axle commercial delivery trucks are often used by small businesses. Under the current toll road rate schedules those delivery trucks pay a higher toll than passenger cars. The proposed rule puts those delivery trucks in the same classification as passenger cars. Currently two axle trucks pay tolls that are 58% more than passenger cars. Under the proposed rule cars and two axle trucks will pay the same toll. Savings are estimated at \$106,000 or 8% of the economic impact.

Additionally, the toll is not a mandatory cost for small businesses. Individual companies can take alternative, parallel

routes to the toll road that will avoid costs associated with the tolls. It is estimated that 16% of the toll road's current business trips will be lost when the proposed rate goes into effect. Estimated savings to small businesses by taking an alternate route is \$222,000 or 16% of the economic impact.

Although INDOT and IFA made the determination to not implement one of the above-referenced alternative methods, the agencies did make the determination to implement the placing of two axle trucks into the lower rate passenger car toll schedule, which translates into a savings for small businesses and acknowledges that small businesses have alternative routes to the toll road that avoid tolls altogether.

Assumptions Used for the Small Business Statement

Small Business Statement must include:

An estimate of the number of small businesses, classified by industry sector that will be subject to the proposed rule.

9,880 small businesses in Indiana are estimated to be customers of the Indiana Toll Road and will be subject to the rate increase. Due to the anonymous nature of travel on the toll road it is not possible to classify these small businesses by the North American Industry Classification System (NAICS) code.

THE FOLLOWING ANALYSIS DETERMINED THE ESTIMATED NUMBER OF SMALL BUSINESS FIRMS AND THE TOTAL ECONOMIC IMPACT:

Indiana small businesses that have trucks making business trips on the toll road:

- The list of toll road's commercial charge customers was reviewed to estimate which firms fell under the small business definition. Personal knowledge about firms and company Web site information was used to segregate small and large Indiana firms. If no Web site was available it was assumed that the firm was a small business.
- 55 of 207 (26.6%) toll road's Indiana commercial accounts were estimated to be small businesses.
- A review of charge revenue determined that 5.3% of Indiana commercial account revenue came from small businesses (\$1,700 average annual revenue from an Indiana small business commercial account.)
- From Wilbur Smith Associates' (WSA) Indiana Toll Road Traffic and Revenue Study (2002) and Rate Review Revenue Study (2005), 30% of trucks using toll road during weekdays and 13.3% during weekends are Indiana registered trucks.
- Using toll road data estimates for weekday and weekend truck revenue and WSA's Indiana registered truck percentages, it was determined that annual revenue for all Indiana trucks = \$14,457,037.
- Assume that Indiana small businesses contribute the same percent of all Indiana truck revenue that Indiana small business charge accounts contribute (5.3%).
- (5.3%) (\$14,457,037) = \$766,200 = annual revenue collected from Indiana small businesses.
- Assume average annual revenue from an Indiana small business charge account is the same average for all Indiana small businesses (\$1,700).

- \$766,200/\$1,700 = 450 Indiana small business that travel toll road using trucks.

Indiana small businesses that use cars for business trips:

- Per WSA studies, the percent of all car traffic on the toll road that represents Indiana registered cars on business trips is 8.2% on weekdays and 0.9% on weekends.
 - Using toll road data for weekday and weekend revenue, it was determined that all Indiana firms account for \$2,026,000 in annual car revenue.
 - Assumptions made about Indiana small business that travel toll road by car on company business:
 - Large companies travel toll road more often. They have larger sales staffs and are more able to send employees on training and to seminars and conventions. Assume large firms travel 5 times more than small.
 - The class of very small Indiana businesses (average 3 employees) travels the toll road much less. The major exception is the small consulting or sales firm. Assume only 25% of Indiana small businesses travel the toll road.
 - The balance of Indiana small businesses have larger staffs that allow for more training trips and are more likely to have sales staff. Assume that 75% of these businesses travel the toll road.
 - The large majority of Indiana firms traveling the toll road are located within the 7 counties through which the toll road travels. Many of the companies located south of these 7 counties have access to I69 and I65 and other state highways to travel direct to their destination. Assume that the number of Indiana businesses that use the toll road come from outside the 7 counties equals 10% of the number of firms using the toll road in the 7 counties.
 - The Indiana Department of Workforce Development generates statistics on firms by employee size and by county. Using those statistics and the assumptions above, it is estimated that 944 large Indiana firms travel the toll road by car for company business (5 times as often as small business). 5,367 very small (average 3 employees) Indiana businesses use the toll road, and 6,399 Indiana business with 10 to 100 employees use the toll road.
 - Currently 11,766 Indiana small businesses are estimated to use the toll road.
 - 11,766 Indiana small businesses plus 4,720 (944 large Indiana businesses who use road 5 times as much as small business) divided into \$2,026,000 annual toll revenue for all Indiana businesses = \$123 average per year.
 - (\$123) (11,766 small Indiana businesses) = \$1,447,000 current annual revenue from Indiana small businesses.
- Calculation of small businesses subject to rule:
- Assume that small businesses who are toll road truck customers are also car customers.
 - WSA study (2005) estimates that 16% of customers will avoid paying the new toll rates by taking routes parallel to the toll road.
 - 84% times 11,766 Indiana small business toll road customers = 9,880 Indiana small businesses impacted by proposed

rate increase.

Calculation of economic impact:

- Car rates are increasing 72%; current car revenue from Indiana small businesses is \$1,447,000. (72%) (\$1,447,000) = \$1,042,000.
- Per WSA study (2005), 16% decrease due to rate increase. (84%) (\$1,042,000) = \$875,000 car revenue from Indiana small businesses.
- For trucks, assume that small businesses use 2, 3, and 4 axle trucks in a much higher proportion than the average on the Indiana Toll Road since the toll road carries a very high number of 5 axle long haul semi-trucks due to out of state registered trucks traveling through Indiana. Small businesses are more likely to use the smaller axle count vehicles to make deliveries.

Truck axles	All trucks % of revenue	Assume Indiana small business %	Current revenue
2	3.4%	24%	\$183,000
3	1.3	10	77,000
4	2.7	20	154,000
5	92.6	46	<u>352,200</u>
			Total \$766,200

Truck axles	Rate increase times current revenue (above)	=	Additional revenue
2	9%		\$16,500
3	24		18,500
4	114		175,500
5	113		<u>398,000</u>
			Total \$608,500

- WSA study (2005) estimates a 15.8% reduction in truck revenue due to rate increase. (\$608,500) (84.2%) = \$512,000 net annual economic impact on Indiana small businesses truck traffic.
- Total car and truck economic impact = \$512,000 + \$875,000 = \$1,387,000.
- An estimate of the annual average annual reporting, record keeping, and other administrative costs that small business will incur to comply with the proposed rule.
 - No additional cost.
 - Whatever administrative costs businesses have, they will not increase due to a rate increase.
- An estimate of the total annual economic impact that compliance with the proposed rule will have on all small business subject to the rule if greater than \$500,000 on all regulated entities.
 - \$1,387,000
 - See the analysis above.
- A statement justifying any requirement or cost that is imposed on a regulated entity under the rule, and is not expressly required by either the statute authorizing the agency to adopt the rule or other statute or federal law. This statement must

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include a reference to any data, studies, or analyses relied upon by the agency in determining the imposition of the requirement or cost is necessary. This statement must include a reference to any data, studies, or analyses relied upon by the agency in determining the imposition of the requirement or cost is necessary.

(This is the same statement that will be published in advance of the Small Business Statement and is assigned to Rick Whitney at INDOT.)

- A regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The regulatory flexibility analysis must consider the following methods of minimizing the economic impact of the proposed rule on small business:
 - The establishment of less stringent compliance or reporting requirements for small businesses.

Not considered as the compliance and reporting requirements are nonexistent.

- The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Not considered as the new rate increase must be applicable to all customers of the Indiana Toll Road on the same date.

- The consolidation or simplification of compliance or reporting requirements for small businesses.

Not applicable to this rule.

- The establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

Not applicable to this rule.

- The exemption of small business from part or all of the requirements or costs imposed by the rule.

Toll road did review exempting small business from part of the costs imposed by this rule. Two axle commercial delivery trucks are often used by small businesses. Under the current toll road rate schedules those delivery trucks pay a higher toll than passenger cars. The proposed rule puts those delivery trucks in the same classification as passenger cars. Currently two axle trucks pay tolls that are 58% more than passenger cars. Under the proposed rule cars and two axle trucks will pay the same toll. Savings are estimated at \$106,000 or 8% of the economic impact.

$\$183,000 (58\%) = \$106,000$ (2 axle current revenue times the old % difference between car and two axle truck rates.)

Additionally, the toll is not a mandatory cost for small businesses. Individual companies can make the choice to take alternative parallel routes to the toll road that will avoid the toll altogether. It is estimated that 16% of the toll road's current business trips will be lost when the proposed rate goes into effect. Estimated savings to small businesses by taking an alternate route is \$222,000 or 16% of the economic impact.

$(\$1,387,000) (16\%) = \$222,000$

- NOTE: If the agency has made a preliminary determination not to implement one or more of the alternative methods considered, the agency shall include a statement explaining

the agency's reason for the determination, including any reference to any data, studies, or analyses relied upon by the agency in making the determination.

(Since the toll road adopted the alternative, there is no requirement for a "statement" here.)

Does this analysis yield numbers that pass the "common sense" analysis review?

- Truck revenue for the toll road as a whole is greater than car revenue. But this analysis states that for Indiana small business the opposite is true. Yes, this makes sense – small businesses are less likely to be businesses that deliver goods by truck.
- The number of small businesses that use the toll road by car for company business dwarfs the number that use the toll road by truck. But for the toll road as a whole, car customers versus truck customers are roughly a 60/40 split. Yes, this makes sense. Small businesses are made up of consulting and sales firms that are dependent on car travel. Additionally, there would be a very large number of small businesses that use the toll road a few times a year to travel to training course, seminars, conventions, and other meetings.

105 IAC 14

SECTION 1. 105 IAC 14 IS ADDED TO READ AS FOLLOWS:

ARTICLE 14. TOLL ROADS

Rule 1. Toll Rate Structure

105 IAC 14-1-1 Definitions

Authority: IC 8-9.5-8-8; IC 8-15-2-14; IC 8-23-2-6

Affected: IC 8-15-2

Sec. 1. The following definitions apply throughout this article unless the context indicates another or different meaning or intent:

- (1) "Authority" means the Indiana finance authority.
- (2) "Axle" means the common axis of rotation of one (1) or more wheels:
 - (A) whether power driven or freely rotating;
 - (B) whether in one (1) or more segments; and
 - (C) regardless of the number of wheels carried thereon.
- (3) "Department" means the Indiana department of transportation.
- (4) "Emergency vehicle" means the following:
 - (A) Fire and police vehicles.
 - (B) Ambulances.
 - (C) Other vehicles authorized by the department.
- (5) "LCV double" means an LCV consisting of a:
 - (A) truck-tractor;
 - (B) semitrailer;
 - (C) converter dolly; and
 - (D) second semitrailer;

complying with the requirements in 135 IAC 2-7-2.

(6) "LCV triple" means a combination of vehicles consisting of:

- (A) a truck-tractor;
- (B) a semitrailer; and
- (C) two (2) trailers;

complying with the requirements in 135 IAC 2-7-2.

(7) "Longer combination vehicle" or "LCV" means an LCV double or LCV triple combination.

(8) "Operator" means every person who:

- (A) drives or is in actual physical control of a vehicle upon the toll road; or
- (B) is exercising control over or steering a vehicle being towed or pushed by another vehicle.

(9) "Police officer" means all officers of the Indiana state police assigned to duty on the toll road by the superintendent of state police.

(10) "Public police officer" means a peace officer of:

- (A) the United States; or
- (B) Indiana or its political subdivisions;

while in discharge of their official duties.

(11) "Toll" means the compensation to be paid to the department for the privilege of using the toll road or any portion thereof.

(12) "Toll attendant" means a toll road employee assigned to and on duty at a toll plaza for the purpose of:

- (A) collecting tolls; or
- (B) issuing toll tickets.

(13) "Toll plaza" means the portion of the toll road:

- (A) beginning where the pavement widens on the approach to the toll booths;
- (B) ending at the point where the pavement narrows to the normal width of roadway after passing the toll booths; and
- (C) including all booths and buildings located thereon.

(14) "Toll road" means all:

- (A) traffic lanes;
- (B) acceleration lanes;
- (C) deceleration lanes;
- (D) shoulders;
- (E) median strips;
- (F) bridges;
- (G) overpasses;
- (H) underpasses;
- (I) interchanges;
- (J) approaches;
- (K) entrance and exit ramps;
- (L) toll plazas;
- (M) travel plazas;
- (N) maintenance areas; and
- (O) other areas adjacent thereto;

under the control or jurisdiction of the department and comprising a part of the Indiana east-west toll road.

(15) "Toll road employee" means each person in the official employ of the department.

(16) "Vehicle" means every device (motorized or non-motorized) in, upon, or by which any person or property is or may be transported or drawn upon a highway.

(Indiana Department of Transportation; 105 IAC 14-1-1)

105 IAC 14-1-2 Classification of vehicles

Authority: IC 8-9.5-8-8; IC 8-15-2-14; IC 8-23-2-6

Affected: IC 8-15-2

Sec. 2. For the purposes of the toll payable under the toll schedule adopted by the department for the use of the Indiana toll road, the following classifications shall apply:

- (1) Class 2. Any vehicle with two (2) axles, including motorcycles.
- (2) Class 3. Any vehicle or combination with three (3) axles.
- (3) Class 4. Any vehicle or combination with four (4) axles.
- (4) Class 5. Any vehicle or combination with five (5) axles.
- (5) Class 6. Any vehicle or combination with six (6) axles.
- (6) Class 7. Any vehicle or combination with seven (7) or more axles and all LCVs.

(Indiana Department of Transportation; 105 IAC 14-1-2)

105 IAC 14-1-3 Payment of tolls

Authority: IC 8-9.5-8-8; IC 8-15-2-14; IC 8-23-2-6

Affected: IC 8-9.5-8-6; IC 8-15-2

Sec. 3. (a) Every operator of a vehicle using the toll road shall pay the toll prescribed by the department, except when the use shall have been exempted from the payment by the department.

(b) All persons driving vehicles upon the toll road, except as provided in section 6 of this rule, are required to pay the prescribed toll at each toll plaza encountered while using the toll road. Tolls may be paid by:

- (1) currency or change presented to a toll collector; or
- (2) correct change deposited in the automatic coin machine.

(c) In the event that a lease exists between the authority (or its successor) and the department, under IC 8-9.5-8-6, on April 3, 2006, the following toll rates will become effective on the toll road:

Proposed Rules

EXHIBIT 1
INDIANA DEPARTMENT OF TRANSPORTATION - TOLL ROAD DISTRICT
 Proposed Toll Structure and Rate Schedule
BARRIER SYSTEM
 (Tolls will be charged as indicated below only upon entry and exit.)

Vehicle Class	Description	Direction of Travel	Entry or Exit	1	5	10	17	21	23
2	Cars, Motorcycles and Other 2 Axle Vehicles	West	Entry	\$1.25	\$-0-	\$-0-	\$0.50	\$0.50	\$0.50
			Exit	1.25	1.00	0.75	-0-	-0-	-0-
		East	Entry	1.25	1.00	0.75	-0-	-0-	-0-
			Exit	1.25	-0-	-0-	0.50	0.50	0.50
3	Three Axle Vehicles or Combination	West	Entry	1.75	-0-	-0-	0.75	0.75	0.75
			Exit	1.75	1.50	1.00	-0-	-0-	-0-
		East	Entry	1.75	1.50	1.00	-0-	-0-	-0-
			Exit	1.75	-0-	-0-	0.75	0.75	0.75
4	Four Axle Vehicles or Combination	West	Entry	3.75	-0-	-0-	1.50	1.50	1.50
			Exit	3.75	3.00	2.25	-0-	-0-	-0-
		East	Entry	3.75	3.00	2.25	-0-	-0-	-0-
			Exit	3.75	-0-	-0-	1.50	1.50	1.50
5	Five Axle Vehicles or Combination	West	Entry	4.75	-0-	-0-	2.00	2.00	2.00
			Exit	4.75	4.00	3.00	-0-	-0-	-0-
		East	Entry	4.75	4.00	3.00	-0-	-0-	-0-
			Exit	4.75	-0-	-0-	2.00	2.00	2.00
6	Six Axle Vehicles or Combination	West	Entry	5.75	-0-	-0-	2.25	2.25	2.25
			Exit	5.75	4.50	3.50	-0-	-0-	-0-
		East	Entry	5.75	4.50	3.50	-0-	-0-	-0-
			Exit	5.75	-0-	-0-	2.25	2.25	2.25
7	Seven or More Axle Vehicles or Combination (includes oversize/overweight) and all Triple and Long Double Tractor Trailers	West	Entry	8.50	-0-	-0-	3.50	3.50	3.50
			Exit	8.50	6.75	5.00	-0-	-0-	-0-
		East	Entry	8.50	6.75	5.00	-0-	-0-	-0-
			Exit	8.50	-0-	-0-	3.50	3.50	3.50

Proposed Rules

Class 4 (Four Axle Vehicles of Combination)

	24 Portage Barrier												
31	1.50	31 Valparaiso-Chesterton											
39	2.25	1.50	39 Michigan City										
49	3.75		1.50	49 La Porte									
72	7.50	6.00	5.25	3.75	72 South Bend-West								
77	8.25	6.75	6.00	4.50	1.50	77 South Bend-ND							
83	9.00	7.50	6.75	5.25	1.50	1.50	83 Mishawaka						
92	10.50	9.00	8.25	6.75	3.00	2.25	1.50	92 Elkhart					
96	11.25	9.75	8.25	6.75	3.75	3.00	2.25	1.50	96 Elkhart-East				
101	12.00	10.50	9.00	7.50	4.50	3.75	3.00	1.50	1.50	101 Bristol			
107	12.75	11.25	10.50	9.00	5.25	4.50	3.75	2.25	1.50	1.50	107 Middlebury		
121	15.00	13.50	12.75	11.25	7.50	6.75	6.00	4.50	3.75	3.00	2.25	121 Howe	
144	18.00	17.25	15.75	14.25	11.25	10.50	9.00	7.50	7.50	6.75	5.25	3.75	144 Angola
153	20.25	18.75	18.00	16.50	12.75	12.00	11.25	9.75	9.00	8.25	7.50	5.25	2.25

Class 5 (Five Axle Vehicles of Combination)

	24 Portage Barrier												
31	2.00	31 Valparaiso-Chesterton											
39	3.00	2.00	39 Michigan City										
49	4.75	4.00	2.00	49 La Porte									
72	9.75	7.75	6.75	4.75	72 South Bend-West								
77	10.75	8.75	7.75	5.75	2.00	77 South Bend-ND							
83	11.75	9.75	8.75	6.75	2.00	2.00	83 Mishawaka						
92	13.50	11.75	10.75	8.75	4.00	3.00	2.00	92 Elkhart					
96	14.50	12.75	10.75	8.75	4.75	4.00	3.00	2.00	96 Elkhart-East				
101	15.50	13.50	11.75	9.75	5.75	4.75	4.00	2.00	2.00	101 Bristol			
107	16.50	14.50	13.50	11.75	6.75	5.75	4.75	3.00	2.00	2.00	107 Middlebury		
121	19.50	17.50	16.50	14.50	9.75	8.75	7.75	5.75	4.75	4.00	3.00	121 Howe	
144	23.25	22.25	20.50	18.50	14.50	13.50	11.75	9.75	9.75	8.75	6.75	4.75	144 Angola
153	26.25	24.25	23.25	21.50	16.50	15.50	14.50	12.75	11.75	10.75	9.75	6.75	3.00

Proposed Rules

2, for the particular vehicle to leave the toll road at the same plaza at which it entered. (*Indiana Department of Transportation; 105 IAC 14-1-5*)

105 IAC 14-1-6 Toll-free travel

Authority: IC 8-9.5-8-8; IC 8-15-2-14; IC 8-23-2-6
Affected: IC 8-15-2

Sec. 6. No free vehicular passage will be permitted over any part of the toll road except to the following:

(1) The department's:

- (A) members;**
- (B) officers;**
- (C) employees;**
- (D) agents; and**
- (E) representatives.**

(2) Police officers of:

- (A) the United States; or**
 - (B) Indiana or its political subdivisions;**
- while in discharge of their official duties.**

(3) Fire or other authorized emergency vehicles entering the toll road:

- (A) for the purpose of performing emergency services;**
- or**
- (B) as authorized by the department.**

(*Indiana Department of Transportation; 105 IAC 14-1-6*)

SECTION 2. SECTION 1 of this document takes effect April 3, 2006.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 1, 2005 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Indiana Department of Transportation will hold a public hearing on proposed new rules concerning the toll rate structure on the Indiana Toll Road.

The Indiana Toll Road has needs for major projects along the Toll Road for widening and interchange projects as well as general reconstruction of aging highway surfaces. These needs cannot be met with the current budget. In addition, since the Toll Road serves as a critical transportation link to the urbanized areas in northern Indiana, a high priority needs to be placed on maintaining adjacent state and local routes as well to attract commerce that results in additional Toll Road trips. An increase in the toll rates will address both the Toll Road's needs as well as improvements to state and local transportation needs in Toll Road counties. Current Toll Road revenue does not allow the Toll Road to build these needed projects on or near the Toll Road.

Data, studies, and analyses relied upon by INDOT in determining that the imposition of the requirement or cost is necessary are:

- A) Capital Improvement Projects Program, May 4, 2005, RQAW.*

B) Rate Review and Revenue Projections Study August 2005-Wilbur Smith Associates.

C) MAJOR MOVES: INDOT Ten Year Major New Construction Program

Copies of the documentation relied upon are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room N730, Indianapolis, Indiana and are open for copying and public inspection.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room N730 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Thomas O. Sharp
Commissioner
Indiana Department of Transportation

TITLE 135 INDIANA FINANCE AUTHORITY

NOTE: Under P.L.235-2005, SECTION 213, the name of the Indiana Transportation Finance Authority is changed to the Indiana Finance Authority, effective May 15, 2005.

Proposed Rule
LSA Document #05-257

DIGEST

Amends 135 IAC 2 to adjust the current toll rate structure on the Indiana Toll Road, adjust the fees for special hauling permits, and modify certain terms and phrases and other provisions of the current rules to reflect current law, usage, and circumstance. Effective April 3, 2006.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

IC 4-22-2.1-5(a)(1):

An estimate of the number of small businesses, classified by industry sector that will be subject to the proposed rules: It is estimated that 11,750 Indiana small businesses currently use the toll road. All of these businesses, if they choose to continue using the toll road, will be subject to the proposed rules. Due to the anonymous nature of travel on the toll road, it is not possible to classify these small businesses by industry sector.

IC 4-22-2.1-5(a)(2):

An estimate of the average annual reporting, record keeping, and other administrative costs that small business will incur to comply with the proposed rules: The Indiana Department of Transportation (INDOT) estimates that the proposed rules will impose no additional costs to small business as those costs relate to reporting, record keeping, and administration.

Although companies that apply for special permits under the Indiana Finance Authority (IFA) rules must maintain current lists of all active drivers permitted for longer combination vehicle (LCV) operations on the toll road and provide these lists

to INDOT upon request, IFA estimates that this record keeping will result in no additional cost. As for changes to the driver requirements for LCV operators under the IFA rules (for example, obtaining a commercial driver's license with appropriate endorsements), these requirements impose no additional costs because they are already required by current law. IFA also estimates that requiring the stencil of an identification number on a truck-tractor of a company permitted for LCV operations will result in no additional cost.

IC 4-22-2.1-5(a)(3):

An estimate of the total annual economic impact that compliance with the proposed rule will have on all small business subject to the rules: Approximately \$1.4 million.

IC 4-22-2.1-5(a)(4):

A statement justifying any requirement or cost that is imposed on small business under the rules, and is not expressly required by either the statute authorizing the agency to adopt the rule or other statute or federal law. This statement must include a reference to any data, studies, or analyses relied upon by the agency in determining the imposition of the requirement or cost is necessary.

The Indiana Toll Road relies on its tolls collected from users to pay for its debt payments, maintenance costs, and operating costs. The impact on small businesses is estimated to be approximately \$1.4 million. The total impact on all users of the toll road is estimated to be approximately \$72 million.

Therefore, the impact on small business is approximately 2% of the total impact to users of the toll road. This is only an estimate of the impact on small business. Due to the anonymous nature of travel on the toll road, it is difficult to determine, with any degree of certainty, what the actual impact on small business will be.

INDOT and IFA did review exempting small business from part of the costs imposed by this rule. Two axle commercial delivery trucks are often used by small businesses. Under the current toll road rate schedules those delivery trucks pay a higher toll than passenger cars. The proposed rule puts those delivery trucks in the same classification as passenger cars. Currently two axle trucks pay tolls that are 58% more than passenger cars. Under the proposed rules, cars and two axle trucks will pay the same toll. Savings to small business are estimated at \$106,000 or 8% of the economic impact (approximately \$1.4 million). Additionally, small business will benefit from the upgrades in maintenance and new construction on the toll road and in the toll road counties.

In addition to the toll rate increase, IFA is proposing to change the special hauling permit fees in the IFA rule. However, these permit fees do not normally apply to small businesses given that the type of oversize goods that require these hauling permits to be transported are manufactured and transported by large companies.

Generally, other than the toll rates and the revision to the special hauling permit provisions, the amendments to the IFA rules are necessary to reflect current law, usage and circumstance.

The Indiana Toll Road has needs for major projects on or near the toll road for widening and interchange projects as well as general reconstruction of aging highway surfaces. These needs cannot be met with the current budget. In addition, since the toll road serves as a critical transportation link to the urbanized areas in northern Indiana, a high priority needs to be placed on maintaining adjacent state and local routes as well to attract commerce that results in additional toll road trips. An increase in the toll rates can address both the toll road's needs as well as improvements to state and local transportation needs in toll road counties. Current revenue does not allow the toll road to build these needed projects on and near the toll road.

Data, studies, and analyses relied upon by INDOT and IFA in determining that the imposition of any requirement or cost is necessary are:

- A) Capital Improvement Projects Program, May 4, 2005, RQAW.
- B) Rate Review and Revenue Projections Study August 2005-Wilbur Smith Associates.
- C) MAJOR MOVES: INDOT Ten Year Draft Major New Construction Program.

IC 4-22-2.1-5(a)(5):

A regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule, including:

INDOT and IFA considered less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. The first item considered was the establishment of less stringent compliance or reporting requirements for small businesses. However, the agencies found that these proposed rules established no reporting requirements and no additional compliance requirements (beyond paying the tolls).

INDOT and IFA then considered the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. The agencies found that because the uniformity provisions under the outstanding bond documents do not allow customers to be charged different toll rates within a vehicle class, the new rate increase must be applicable to all customers of the Indiana Toll Road on the same date.

The agencies found that the consolidation or simplification of compliance or reporting requirements for small businesses and the establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities were inapplicable to this rule.

INDOT and IFA considered exempting small business from part of the costs imposed by this rule. Two axle commercial delivery trucks are often used by small businesses. Under the current toll road rate schedules those delivery trucks pay a higher toll than passenger cars. The proposed rule puts those delivery trucks in the same classification as passenger cars. Currently two axle trucks pay tolls that are 58% more than passenger cars. Under the proposed rule cars and two axle trucks will pay the same toll. Savings are estimated at \$106,000 or 8% of the economic impact.

Proposed Rules

Additionally, the toll is not a mandatory cost for small businesses. Individual companies can take alternative, parallel routes to the toll road that will avoid costs associated with the tolls. It is estimated that 16% of the toll road's current business trips will be lost when the proposed rate goes into effect. Estimated savings to small businesses by taking an alternate route is \$222,000 or 16% of the economic impact.

Although INDOT and IFA made the determination to not implement one of the above-referenced alternative methods, the agencies did make the determination to implement the placing of two axle trucks into the lower rate passenger car toll schedule, which translates into a savings for small businesses and acknowledges that small businesses have alternative routes to the toll road that avoid tolls altogether.

Assumptions Used for the Small Business Statement Small Business Statement must include:

An estimate of the number of small businesses, classified by industry sector that will be subject to the proposed rule.

9,880 small businesses in Indiana are estimated to be customers of the Indiana Toll Road and will be subject to the rate increase. Due to the anonymous nature of travel on the toll road it is not possible to classify these small businesses by the North American Industry Classification System (NAICS) code.

THE FOLLOWING ANALYSIS DETERMINED THE ESTIMATED NUMBER OF SMALL BUSINESS FIRMS AND THE TOTAL ECONOMIC IMPACT:

Indiana small businesses that have trucks making business trips on the toll road:

- The list of toll road's commercial charge customers was reviewed to estimate which firms fell under the small business definition. Personal knowledge about firms and company Web site information was used to segregate small and large Indiana firms. If no Web site was available it was assumed that the firm was a small business.
- 55 of 207 (26.6%) toll road's Indiana commercial accounts were estimated to be small businesses.
- A review of charge revenue determined that 5.3% of Indiana commercial account revenue came from small businesses (\$1,700 average annual revenue from an Indiana small business commercial account.)
- From Wilbur Smith Associates' (WSA) Indiana Toll Road Traffic and Revenue Study (2002) and Rate Review Revenue Study (2005), 30% of trucks using toll road during weekdays and 13.3% during weekends are Indiana registered trucks.
- Using toll road data estimates for weekday and weekend truck revenue and WSA's Indiana registered truck percentages, it was determined that annual revenue for all Indiana trucks = \$14,457,037.
- Assume that Indiana small businesses contribute the same percent of all Indiana truck revenue that Indiana small business charge accounts contribute (5.3%).
- (5.3%) (\$14,457,037) = \$766,200 = annual revenue collected from Indiana small businesses.
- Assume average annual revenue from an Indiana small

business charge account is the same average for all Indiana small businesses (\$1,700).

- $\$766,200/\$1,700 = 450$ Indiana small business that travel toll road using trucks.

Indiana small businesses that use cars for business trips:

- Per WSA studies, the percent of all car traffic on the toll road that represents Indiana registered cars on business trips is 8.2% on weekdays and 0.9% on weekends.
 - Using toll road data for weekday and weekend revenue, it was determined that all Indiana firms account for \$2,026,000 in annual car revenue.
 - Assumptions made about Indiana small business that travel toll road by car on company business:
 - Large companies travel toll road more often. They have larger sales staffs and are more able to send employees on training and to seminars and conventions. Assume large firms travel 5 times more than small.
 - The class of very small Indiana businesses (average 3 employees) travels the toll road much less. The major exception is the small consulting or sales firm. Assume only 25% of Indiana small businesses travel the toll road.
 - The balance of Indiana small businesses have larger staffs that allow for more training trips and are more likely to have sales staff. Assume that 75% of these businesses travel the toll road.
 - The large majority of Indiana firms traveling the toll road are located within the 7 counties through which the toll road travels. Many of the companies located south of these 7 counties have access to I69 and I65 and other state highways to travel direct to their destination. Assume that the number of Indiana businesses that use the toll road come from outside the 7 counties equals 10% of the number of firms using the toll road in the 7 counties.
 - The Indiana Department of Workforce Development generates statistics on firms by employee size and by county. Using those statistics and the assumptions above, it is estimated that 944 large Indiana firms travel the toll road by car for company business (5 times as often as small business). 5,367 very small (average 3 employees) Indiana businesses use the toll road, and 6,399 Indiana business with 10 to 100 employees use the toll road.
 - Currently 11,766 Indiana small businesses are estimated to use the toll road.
 - 11,766 Indiana small businesses plus 4,720 (944 large Indiana businesses who use road 5 times as much as small business) divided into \$2,026,000 annual toll revenue for all Indiana businesses = \$123 average per year.
 - $(\$123) (11,766 \text{ small Indiana businesses}) = \$1,447,000$ current annual revenue from Indiana small businesses.
- Calculation of small businesses subject to rule:
- Assume that small businesses who are toll road truck customers are also car customers.
 - WSA study (2005) estimates that 16% of customers will avoid paying the new toll rates by taking routes parallel to the toll road.

- 84% times 11,766 Indiana small business toll road customers = 9,880 Indiana small businesses impacted by proposed rate increase.

Calculation of economic impact:

- Car rates are increasing 72%; current car revenue from Indiana small businesses is \$1,447,000. (72%) (\$1,447,000) = \$1,042,000.
- Per WSA study (2005), 16% decrease due to rate increase. (84%) (\$1,042,000) = \$875,000 car revenue from Indiana small businesses.
- For trucks, assume that small businesses use 2, 3, and 4 axle trucks in a much higher proportion than the average on the Indiana Toll Road since the toll road carries a very high number of 5 axle long haul semi-trucks due to out of state registered trucks traveling through Indiana. Small businesses are more likely to use the smaller axle count vehicles to make deliveries.

Truck axles	All trucks % of revenue	Assume Indiana small business %	Current revenue
2	3.4%	24%	\$183,000
3	1.3	10	77,000
4	2.7	20	154,000
5	92.6	46	<u>352,200</u>
Total			\$766,200

Truck axles	Rate increase times current revenue (above)	=	Additional revenue
2	9%		\$16,500
3	24		18,500
4	114		175,500
5	113		<u>398,000</u>
Total			\$608,500

- WSA study (2005) estimates a 15.8% reduction in truck revenue due to rate increase. (\$608,500) (84.2%) = \$512,000 net annual economic impact on Indiana small businesses truck traffic.
- Total car and truck economic impact = \$512,000 + \$875,000 = \$1,387,000.
- An estimate of the annual average annual reporting, record keeping, and other administrative costs that small business will incur to comply with the proposed rule.
No additional cost.
Whatever administrative costs businesses have, they will not increase due to a rate increase.
- An estimate of the total annual economic impact that compliance with the proposed rule will have on all small business subject to the rule if greater than \$500,000 on all regulated entities.
\$1,387,000
See the analysis above.
- A statement justifying any requirement or cost that is imposed on a regulated entity under the rule, and is not expressly

required by either the statute authorizing the agency to adopt the rule or other statute or federal law. This statement must include a reference to any data, studies, or analyses relied upon by the agency in determining the imposition of the requirement or cost is necessary. This statement must include a reference to any data, studies, or analyses relied upon by the agency in determining the imposition of the requirement or cost is necessary.

(This is the same statement that will be published in advance of the Small Business Statement and is assigned to Rick Whitney at INDOT.)

- A regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The regulatory flexibility analysis must consider the following methods of minimizing the economic impact of the proposed rule on small business:
 - The establishment of less stringent compliance or reporting requirements for small businesses.
Not considered as the compliance and reporting requirements are nonexistent.
 - The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Not considered as the new rate increase must be applicable to all customers of the Indiana Toll Road on the same date.

- The consolidation or simplification of compliance or reporting requirements for small businesses.
Not applicable to this rule.

- The establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

Not applicable to this rule.

- The exemption of small business from part or all of the requirements or costs imposed by the rule.

Toll road did review exempting small business from part of the costs imposed by this rule. Two axle commercial delivery trucks are often used by small businesses. Under the current toll road rate schedules those delivery trucks pay a higher toll than passenger cars. The proposed rule puts those delivery trucks in the same classification as passenger cars. Currently two axle trucks pay tolls that are 58% more than passenger cars. Under the proposed rule cars and two axle trucks will pay the same toll. Savings are estimated at \$106,000 or 8% of the economic impact.

\$183,000 (58%) = \$106,000 (2 axle current revenue times the old % difference between car and two axle truck rates.)

Additionally, the toll is not a mandatory cost for small businesses. Individual companies can make the choice to take alternative parallel routes to the toll road that will avoid the toll altogether. It is estimated that 16% of the toll road's current business trips will be lost when the proposed rate goes into effect. Estimated savings to small businesses by taking an alternate route is \$222,000 or 16% of the economic impact.

(\$1,387,000) (16%) = \$222,000

- NOTE: If the agency has made a preliminary determination

Proposed Rules

not to implement one or more of the alternative methods considered, the agency shall include a statement explaining the agency's reason for the determination, including any reference to any data, studies, or analyses relied upon by the agency in making the determination.

(Since the toll road adopted the alternative, there is no requirement for a "statement" here.)

Does this analysis yield numbers that pass the "common sense" analysis review?

- Truck revenue for the toll road as a whole is greater than car revenue. But this analysis states that for Indiana small business the opposite is true. Yes, this makes sense – small businesses are less likely to be businesses that deliver goods by truck.
- The number of small businesses that use the toll road by car for company business dwarfs the number that use the toll road by truck. But for the toll road as a whole, car customers versus truck customers are roughly a 60/40 split. Yes, this makes sense. Small businesses are made up of consulting and sales firms that are dependent on car travel. Additionally, there would be a very large number of small businesses that use the toll road a few times a year to travel to training course, seminars, conventions, and other meetings.

135 IAC 2-1-1	135 IAC 2-7-8
135 IAC 2-2-1	135 IAC 2-7-11
135 IAC 2-2-3	135 IAC 2-7-12
135 IAC 2-2-5	135 IAC 2-7-13
135 IAC 2-2-10	135 IAC 2-7-14
135 IAC 2-2-12	135 IAC 2-7-15
135 IAC 2-3-1	135 IAC 2-7-16
135 IAC 2-3-2	135 IAC 2-7-17
135 IAC 2-4-1	135 IAC 2-7-18
135 IAC 2-4-2	135 IAC 2-7-19
135 IAC 2-4-4	135 IAC 2-7-20
135 IAC 2-5-1	135 IAC 2-7-21
135 IAC 2-5-2	135 IAC 2-7-22
135 IAC 2-5-2.1	135 IAC 2-7-23
135 IAC 2-5-3	135 IAC 2-7-24
135 IAC 2-5-5	135 IAC 2-8-1
135 IAC 2-7-1	135 IAC 2-8-3
135 IAC 2-7-2	135 IAC 2-8-5
135 IAC 2-7-3	135 IAC 2-8-7
135 IAC 2-7-5	135 IAC 2-8-11
135 IAC 2-7-6	135 IAC 2-10-1
135 IAC 2-7-7	135 IAC 2-10-2

SECTION 1. 135 IAC 2-1-1 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-1-1 Definitions

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 1. As used in ~~135 IAC 2-1~~ to ~~135 IAC 2-10~~; The

following words and terms shall have the following meanings; definitions apply throughout this article unless the context shall indicate ~~indicates~~ another or different meaning or intent:

- (1) "Aircraft" means any contrivance used or designed for navigation of or flight in the air.
- (2) "Authority" means the Indiana ~~toll~~ finance authority.
- (3) "Automatic lane" means those entry or exit lanes located at toll plazas ~~which that~~ are:
 - (A) generally unattended by toll attendants; and ~~are~~
 - (B) equipped with automatic:
 - (i) ticket dispensers; or ~~automatic~~
 - (ii) coin receptacles;for the collection of specified tolls.
- (4) "Axle" means the common axis of rotation of one (1) or more wheels:
 - (A) whether power driven or freely rotating; ~~and~~
 - (B) whether in one (1) or more segments; and
 - (C) regardless of the number of wheels carried thereon.
- (5) "Axle weight" means the total weight concentrated on one (1) or more axles spaced less than forty (40) inches from center to center.
- (6) "Bicycle" means any vehicle irrespective of the number of wheels in contact with the ground ~~which that~~ has the possibility of being foot propelled.
- (7) "Bus" means any vehicle designed for the transportation of ~~ten (10)~~ **sixteen (16)** or more persons.
- (8) "Control devices and signals" means all:
 - (A) signs;
 - (B) signals;
 - (C) markings; and
 - (D) devices;placed or erected on the toll road, as ~~herein~~ defined in **this section**, for the purpose of regulating, warning, or guiding traffic.
- (9) "Converter dolly" means a one (1) or two (2) axle vehicle:
 - (A) designed to convert a semitrailer into a trailer; and
 - (B) usually coupled to a semitrailer for the purpose of making up a tandem trailer combination.
- (10) "Cross-over" means a paved area in the median strip provided for the use of authorized vehicles to cross the median strip.
- (11) "Deceleration lanes and acceleration lanes" means speed change lanes provided for vehicles entering and exiting service areas or interchanges adjacent to the outer traffic lanes.
- (12) "Department" means the Indiana department of ~~highways, toll road division~~ **transportation**.
- (13) "Disabled vehicle" means any vehicle temporarily incapable of movement.
- (14) "Emergency vehicle" means **the following**:
 - (A) Fire and police vehicles.
 - (B) Ambulances. ~~and~~
 - (C) Other vehicles authorized by the department.
- (15) "Gross weight" means the total weight of a vehicle or

combination of vehicles, including the weight of the **following**:

- (A) The vehicle or vehicles.
- (B) Loads.
- (C) Drivers.
- (D) Fuel.
- (E) Spare tire. ~~etc.~~

(16) "Interchange" means that portion of the toll road: (A) beginning at the point where entrance and exit roads join:

- (i) federal;
- (ii) state;
- (iii) county; or
- (iv) city;

highways or streets; ~~and~~

(B) ending at the point where the toll road traffic lanes join the deceleration and acceleration lanes, as ~~herein~~ defined in **this section**; and

(C) including all:

- (i) bridges;
- (ii) underpasses;
- (iii) overpasses;
- (iv) toll plazas; **or**
- (v) parking areas; ~~etc.~~

located between ~~said~~ the points **referenced in clauses (A) and (B)**.

(17) "LCV double" means an LCV consisting of a:

- (A) truck-tractor;
- (B) semitrailer;
- (C) converter dolly; **and**
- (D) second semitrailer;

complying with the requirements in 135 IAC 2-7-2.

(18) "LCV triple" means a combination of vehicles consisting of:

- (A) a truck-tractor;
- (B) a semitrailer; **and**
- (C) two (2) trailers;

complying with the requirements in 135 IAC 2-7-2.

(19) "Longer combination vehicle" or "LCV" means an LCV double or LCV triple combination.

(20) "Median strips" means the area between the inner traffic lane for westbound traffic and the inner traffic lane for eastbound traffic, including **the following**:

- (A) Concrete barriers.
- (B) Grassy areas. ~~and~~
- (C) Inner shoulders.

(21) "Michigan trains" means a combination of three (3) vehicles consisting of a:

- (A) truck-tractor;
- (B) semitrailer; **and**
- (C) trailer;

complying with the requirements of 135 IAC 2-8-2 hereafter, ~~which that~~ exceeds **ninety thousand** (90,000) pounds.

(22) "Motorcycle" means every vehicle designed to travel on

not more than three (3) wheels in contact with the ground.

(23) "Operator" means every person who:

- (A) drives or is in actual physical control of a vehicle upon the toll road; ~~or who~~
- (B) is exercising control over or steering a vehicle being towed or pushed by another vehicle.

(24) "Oversize or unusual vehicle" means those vehicles exceeding the allowable dimensions set forth in 135 IAC 2-4-1 hereafter.

(25) "Parking" means the stopping or standing of a vehicle whether occupied or not. A vehicle shall not be deemed to be parked if stopped temporarily for any of the following reasons:

- ~~(1)~~ (A) Because its movement is obstructed.
- ~~(2)~~ (B) While waiting to enter or exit a toll booth lane.
- ~~(3)~~ (C) In obedience to:
 - (i) the direction of a police officer, toll attendant, or other toll road employee assigned to traffic control work; or
 - (ii) an official sign, signal, marking, or device.
- ~~(4)~~ (D) Because it is disabled.

(26) "Pedestrian" means any natural person afoot.

(27) "Permitted company" means a company as described in 135 IAC 2-7-21.

(28) "Person" means ~~every~~ **any of the following**:

- (A) A natural person.
- (B) A firm.
- (C) A copartnership.
- (D) ~~An~~ association.
- (E) A corporation. ~~or~~
- (F) A legal entity.

(29) "Police officer" means all officers of the Indiana state police assigned to duty on the toll road by the superintendent of state police.

(30) "Public police officer" means peace officers of:

- (A) the United States; ~~of the state of or~~
 - (B) Indiana or ~~of~~ its political subdivisions;
- while in discharge of their official duties.

(31) "Radioactive material" means any material, or combination of materials, that spontaneously emits ionizing radiation, excepting only those specifically exempted from control by the hazardous materials regulations of the ~~U.S.~~ **United States** Department of Transportation, Federal Highway Administration. ~~in effect on June 1, 1980.~~

(32) "Semitrailer" means every vehicle without motive power:

- (A) designed for:
 - (i) carrying persons or property; **and for**
 - (ii) being drawn by another vehicle; **and so**
- (B) constructed **so** that some part of its weight and ~~that of~~ its load:
 - (i) rests upon; or
 - (ii) is carried by; another vehicle.

~~"Service area" means the portion of the toll road right-of-way~~

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occupied by the restaurant buildings, service stations, parking and seeded areas adjacent thereto, including the deceleration lanes and acceleration lanes provided for entering and exiting such areas.

(33) "Shoulders" means the paved strips adjoining the following:

- (A) Traffic lanes.
- (B) Acceleration and deceleration lanes. ~~and~~
- (C) Interchange ramps.

(34) "Tandem axle group" means two (2) or more axles spaced:

- (A) more than forty (40) inches; and
- (B) less than ~~108~~ **ninety-six (96)** inches. ~~from center to center having at least one common point of weight suspension.~~

"Tandem trailer combination" means a combination of vehicles consisting of a truck-tractor, semi-trailer, converter dolly and second semi-trailer, complying with the requirements in 135 IAC 2-7-2.

(35) "Toll" means the compensation to be paid to the department for the privilege of using the toll road or any portion thereof.

(36) "Toll attendant" means a toll road employee assigned to and on duty at a toll plaza for the purpose of:

- (A) collecting tolls; ~~and/or using or~~
- (B) **issuing** toll tickets.

(37) "Toll plaza" means the portion of the toll road:

- (A) beginning where the pavement widens on the approach to the toll booths; ~~and~~
- (B) ending at the point where the pavement narrows to the normal width of roadway after passing the toll booths; and
- (C) including all booths and buildings located thereon.

(38) "Toll road" means all:

- (A) traffic lanes;
- (B) acceleration lanes;
- (C) deceleration lanes;
- (D) shoulders;
- (E) median strips;
- (F) bridges;
- (G) overpasses;
- (H) underpasses;
- (I) interchanges;
- (J) approaches;
- (K) entrance and exit ramps;
- (L) toll plazas; ~~service areas;~~
- (M) **travel plazas;**
- (N) maintenance areas; ~~and any and all~~
- (O) other areas adjacent thereto;

under the control or jurisdiction of the department and comprising a part of the Indiana east-west toll road.

(39) "Toll road employee" means each person in the official employ of the ~~Indiana~~ department. ~~of highways, toll road division.~~

(40) "Traffic" means vehicles, either singly or together, using

any portion of the toll road for the purpose of travel.

(41) "Traffic control signal" means any device, whether:

- (A) manually;
- (B) electrically; or
- (C) mechanically;

operated, by which traffic on the toll road is regulated.

(42) "Traffic lanes" means the four (4) ~~or six (6)~~ continuous traffic lanes (each for a single line of vehicles) extending between the eastern and western termini of the toll road. These four (4) ~~or six (6)~~ traffic lanes are in two ~~pairs; (2) or three (3) lanes~~, which ~~pairs lanes~~ are separated by the median strip. The ~~pair which lies lanes that lie~~ generally to the north of the median strip is ~~are~~ for westbound traffic, and the ~~pair which lies lanes that lie~~ generally to the south of the median strip is ~~are~~ for eastbound traffic.

(43) "Trailer" means a vehicle without motive power designed for carrying property.

"Trailer combination" means any tandem trailer combination where the semi-trailer or trailer are over 28' 6" in length and any triple trailer combination.

"Triple trailer combination" means a combination of vehicles consisting of a truck-tractor, semi-trailer and two (2) trailers, complying with the requirements in 135 IAC 2-7-2.

(44) "Travel plaza" means the portion of the toll road right-of-way occupied by the:

- (A) **restaurant buildings;**
- (B) **fuel stations; and**
- (C) **parking and seeded areas adjacent thereto;**

including the deceleration lanes and acceleration lanes provided for entering and exiting the areas.

(45) "Truck-tractor" means every vehicle:

- (A) designed and used primarily for drawing other vehicles; ~~and so~~
- (B) constructed **so** as not to carry a load other than a part of the weight of the vehicle and load so drawn.

Nothing in this section prohibits the transportation of motor vehicles on part of the truck-tractor.

(46) "Vehicle" means every device (motorized or nonmotorized) in, upon, or by which any person or property is or may be transported or drawn upon a highway.

(Indiana Finance Authority; 135 IAC 2-1-1; filed Dec 6, 1983, 1:52 p.m.; 7 IR 321; errata, 7 IR 1054; readopted filed Nov 6, 2002, 10:33 a.m.; 26 IR 882)

SECTION 2. 135 IAC 2-2-1 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-2-1 Speed regulations

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2; IC 9-21-5-11

Sec. 1. **The following are speed regulation requirements:**

(1) No person shall drive a vehicle **as follows:**

- (A) On the toll road at a speed greater than is reasonable and prudent under the conditions and having regard for the

actual and potential hazards then existing.

~~(1) No person shall drive any vehicle~~ **(B)** On the traffic lanes of the toll road at a speed greater than that posted. At no location on the toll road shall the rate of speed of any vehicle exceed that permitted by ~~IC 9-4-1-57~~ **IC 9-21-5.**

(2) No person shall operate a vehicle at a speed in excess of **the following:**

(A) That posted on any interchange.

~~(3) No person shall operate a vehicle at a speed in excess of~~ **(B)** Twenty (20) miles per hour within any ~~service area;~~ **travel plaza,** except on the acceleration and deceleration lanes thereof.

~~(4)~~ **(3)** No person shall drive a vehicle at such a low speed as to impede or block the normal and reasonable movement of traffic or at a speed lower than forty-five (45) miles per hour on the traffic lanes on the toll road, except when:

(A) a reduced speed is necessary for safe operation; ~~or when~~

(B) ordered to do so by a police officer; or ~~when~~

(C) posted at a lower speed.

~~(5)~~ **(4)** No operator of a vehicle shall suddenly decrease the speed of ~~his~~ a vehicle without first giving a clearly visible and conventional signal to traffic ~~immediately~~ **immediately** to the rear.

(5) In construction zones, vehicles shall comply with IC 9-21-5-11.

(Indiana Finance Authority; 135 IAC 2-2-1; filed Dec 6, 1983, 1:52 p.m.: 7 IR 323; filed Aug 5, 1987, 4:15 p.m.: 11 IR 6; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 3. 135 IAC 2-2-3 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-2-3 Entering traffic lanes

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 3. Upon entering a traffic lane from a ~~service area;~~ **travel plaza,** interchange, shoulder, or entrance ramp, the operator of a vehicle shall **do the following:**

(1) Use the acceleration lane or shoulder. ~~and he shall~~

(2) Enter the outer traffic lane with caution so as not to interfere with or endanger traffic. ~~The operator of a vehicle entering a traffic lane shall~~

(3) Yield the right-of-way to vehicles already on the traffic lanes.

(Indiana Finance Authority; 135 IAC 2-2-3; filed Dec 6, 1983, 1:52 p.m.: 7 IR 323; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 4. 135 IAC 2-2-5 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-2-5 U-turns prohibited

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 5. No person operating a vehicle shall make a U-turn at any point on the toll road, except as:

(1) directed to do so by a police officer; or

(2) authorized by the department.

(Indiana Finance Authority; 135 IAC 2-2-5; filed Dec 6, 1983, 1:52 p.m.: 7 IR 324; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 5. 135 IAC 2-2-10 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-2-10 Traffic control signals

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 10. All traffic approaching toll ~~booths~~ **plazas** shall comply with the signals of the lights indicating the following:

(1) For a toll plaza, the following:

(A) A green light indicates that:

(i) the traffic lane over which the light is displayed is open to traffic; or

(ii) in the case of automatic lanes, ~~that such the~~ vehicle activating ~~said the~~ green light may proceed.

(B) A red light indicates that:

(i) the traffic lane over which the light is displayed is closed to traffic; or

(ii) in the case of automatic lanes, ~~that such the~~ vehicle failing to activate the green light shall not proceed.

(2) For a highway, a flashing yellow light indicates that all traffic shall do the following:

(A) Reduce speed. ~~and~~

(B) Proceed with caution. ~~and in compliance~~

(C) Comply with all supplemental and related traffic signs.

(Indiana Finance Authority; 135 IAC 2-2-10; filed Dec 6, 1983, 1:52 p.m.: 7 IR 324; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 6. 135 IAC 2-2-12 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-2-12 Stops at toll collection facilities

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 12. **(a)** The operator of a vehicle shall make a complete stop at **all manual and automatic** toll collection facilities when entering and exiting the toll road if the:

(1) procurement of a ticket; or ~~the~~

(2) payment of a toll;

is required.

(b) In any facility with unstaffed toll collection capabilities, the operator of a vehicle shall comply with all signs with respect to the following:

(1) Operating speed.

(2) Stopping of vehicles.

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(3) The procession subsequent to a reduction in speed or a stop.

(Indiana Finance Authority; 135 IAC 2-2-12; filed Dec 6, 1983, 1:52 p.m.: 7 IR 325; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 7. 135 IAC 2-3-1 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-3-1 Pedestrians and certain vehicles prohibited

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 1. The following shall not be permitted to travel on the toll road under any circumstances:

- (1) Pedestrians.
- (2) Bicycles.
- (3) Motorcycles with less than **one hundred twenty-five (125) cc. cubic centimeters** displacement.
- (4) Vehicles drawn by animals.
- (5) Aircraft.
- (6) Vehicles with improperly secured loads.
- (7) Vehicles with **any of the following:**
 - (A) Metal tires.
 - (B) Solid tires. ~~or~~
 - (C) Deflated pneumatic tires. ~~and vehicles with~~
 - (D) Caterpillar treads.
- (8) Vehicles towing another vehicle ~~which do~~ **that does not have the following:**
 - (A) A proper tow bar. ~~and~~
 - (B) Safety chains.
- (9) ~~Such Vehicles as that are deemed, in the opinion of a department toll attendant or attendants or any police officer, are deemed to be as follows:~~
 - (A) Unsafe. ~~or to be~~
 - (B) Such as to create a hazard upon the toll road.

(Indiana Finance Authority; 135 IAC 2-3-1; filed Dec 6, 1983, 1:52 p.m.: 7 IR 325; errata, 7 IR 1054; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 8. 135 IAC 2-3-2 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-3-2 Hitchhiking and loitering prohibited

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 2. **The following are prohibited on any portion of the toll road, including all toll plazas and travel plazas:**

- (1) The solicitation of a ride, commonly known as hitchhiking. ~~or~~
- (2) Stopping any vehicle for the purpose of picking up or discharging a hitchhiker. ~~on any portion of the toll road, including all plazas; is prohibited.~~
- (3) Loitering. in or about the toll plazas or any other portion

~~of the toll road is prohibited.~~

(Indiana Finance Authority; 135 IAC 2-3-2; filed Dec 6, 1983, 1:52 p.m.: 7 IR 325; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 9. 135 IAC 2-4-1 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-4-1 Allowable dimensions without toll attendant authorization

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 1. The ~~following dimensions in this section~~ shall be the maximum allowable dimensions for vehicles permitted to operate on the toll road without toll attendant authorization under ~~135 IAC 2-4-2 section 2 of this rule~~ or a permit under ~~135 IAC 2-4-4 section 4 of this rule~~, 135 IAC 2-7, or 135 IAC 2-8. Vehicles not exceeding ~~these the following~~ dimensions shall, for toll collection purposes, be classified by axle count and the toll assessed accordingly:

FACTOR	LIMITS
Width	8' 6"
Height	13' 6"
Length for single vehicle under own motive power (other than buses)	36' 0"
Buses	40' 0"
Semitrailer in a truck tractor-semitrailer combination	53' 0"

Provided, however, that a semitrailer longer than forty-eight **(48)** feet, six **(6)** inches ~~(48' 6")~~ shall not be operated on the toll road when the distance between the kingpin and the rearmost axle of the semitrailer exceeds forty **(40)** feet, six **(6)** inches. (Indiana Finance Authority; 135 IAC 2-4-1; filed Dec 6, 1983, 1:52 p.m.: 7 IR 326; filed Aug 5, 1987, 4:15 p.m.: 11 IR 6; errata, 11 IR 96; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 10. 135 IAC 2-4-2 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-4-2 Dimensions requiring toll attendant authorization

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 2. The operator or operators of any vehicle exceeding any of the dimensions set forth in ~~135 IAC 2-4-1, section 1 of this rule~~, except where permits are required under ~~135 IAC 2-4-4, section 4 of this rule~~, 135 IAC 2-7, or 135 IAC 2-8, shall, upon entering the toll road, state to the toll attendant on duty the facts relative to any excessive dimension or dimensions. The toll attendant, so advised, may at that time ~~permit allow~~ the vehicle to travel on the toll road, after having classified ~~said the~~ vehicle as a ~~Class 8~~; **by axle count and the toll assessed**

accordingly, if it should fall within the **following** dimensions: as follows:

Width	*Over 8' 6" to and including 12' 0"
Height	Over 13' 6" to and including 14' 6"
Length:	
Single vehicles	To 65' 0"
Buses	To 65' 0"

*Vehicles exceeding 10' 0" in width are not allowed to travel during hours of darkness. (*Indiana Finance Authority; 135 IAC 2-4-2; filed Dec 6, 1983, 1:52 p.m.: 7 IR 326; errata, 7 IR 1054; filed Aug 5, 1987, 4:15 p.m.: 11 IR 6; errata, 11 IR 96; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 11. 135 IAC 2-4-4 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-4-4 Special hauling permits

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 4. The department may issue (a) A special hauling permit for ~~vehicles~~ **a vehicle** exceeding the dimensions or weights set forth in ~~135 IAC 2-4-2 sections 2 and 135 IAC 2-4-3; 3 of this rule~~, providing the load is nondivisible, ~~These permits are may be issued by the department of state revenue. The permit is issued on a one-trip basis. The permit fee is as follows:~~

- (1) **Five dollars (\$5) for oversized dimension loads.**
- (2) **Fifty dollars (\$50) in addition to paying a rate indicator & toll: for loads ninety thousand (90,000) to one hundred twenty thousand (120,000) pounds.**
- (3) **Seventy-five dollars (\$75) for loads one hundred twenty thousand one (120,001) to two hundred thousand (200,000) pounds.**
- (4) **One hundred dollars (\$100) for loads over two hundred thousand (200,000) pounds.**

(b) The operator ~~or operators of any vehicle exceeding said dimensions and weights set out in 135 IAC 2-4-2 and 135 IAC 2-4-3 herein shall apply to the General Manager of the Department, P.O. Box 1, Granger, Indiana 46530-0001, in writing; for an application for special hauling permit. Said application must be in compliance with all the terms thereof; and must be received at least seven (7) days prior to the time of permitted entry; should such permit be granted. Such permit, if granted; will be returned to the applicant in duplicate; properly completed and numbered; and the driver of the vehicle shall have a copy of the permit to present to the toll attendant upon entry.~~

Pertinent information regarding the issuance and use of special hauling permits; as well as application forms; may be obtained from the department upon request. (*Indiana Finance Authority; 135 IAC 2-4-4; filed Dec 6, 1983, 1:52 p.m.: 7 IR*

326; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 12. 135 IAC 2-5-1 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-5-1 Classification of vehicles

Authority: IC 8-15-2-14; IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 1. For ~~the~~ purposes of the toll payable under the toll schedule adopted by the authority for ~~the~~ use of the Indiana toll road, the following classifications shall apply:

- ~~(1) Class 1—Any vehicle with four tires or less.~~
- ~~(2) (1) Class 2. Any vehicle with four tires or less with trailer.~~
- two (2) axles, including motorcycles.**
- ~~(3) Class 3—Any vehicle with two axles and six tires.~~
- ~~(4) (2) Class 4— 3. Any vehicle or combination with three (3) axles. or two axle tractor with one axle trailer.~~
- ~~(5) (3) Class 5— 4. Any vehicle or combination with four (4) axles.~~
- ~~(6) (4) Class 6— 5. Any vehicle or combination with five (5) axles.~~
- ~~(7) (5) Class 7— 6. Any vehicle or combination with six (6) axles.~~
- ~~(8) (6) Class 8: Authorized trailer combinations; Michigan trains 7. Any vehicle or combination with seven (7) or more axles and special oversize or unusual vehicles: all LCVs.~~
- ~~(9) Class 9—Commuters.~~

(*Indiana Finance Authority; 135 IAC 2-5-1; filed Dec 6, 1983, 1:52 p.m.: 7 IR 326; filed Mar 5, 1985, 9:10 a.m.: 8 IR 748; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*) NOTE: *Effective on the date of the commencement of the operation of the new combination ticket/barrier system of toll collection.*

SECTION 13. 135 IAC 2-5-2.1 IS ADDED TO READ AS FOLLOWS:

135 IAC 2-5-2.1 Payment of tolls

Authority: IC 8-15-2-14; IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-9.5-8-6; IC 8-15-2

Sec. 2.1. (a) Every operator of a vehicle using the toll road shall pay the toll prescribed by the authority (unless a lease exists between the authority and the department under IC 8-9.5-8-6, in which case the tolls are fixed by the department under 105 IAC 14), except when the use shall have been exempted from the payment by the authority.

(b) All persons driving vehicles upon the toll road, except as provided in section 5 of this rule, are required to pay the prescribed toll at each toll plaza encountered while using the toll road. Tolls may be paid by:

- (1) **currency or change presented to a toll attendant; or**
- (2) **correct change deposited in the automatic coin machine.**

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(c) In the event that no lease exists between the authority (or its successor) and the department under IC 8-9.5-8-6, the following toll rates will become effective on the toll road:

EXHIBIT 1
INDIANA DEPARTMENT OF TRANSPORTATION - TOLL ROAD DISTRICT
 Proposed Toll Structure and Rate Schedule
BARRIER SYSTEM
 (Tolls will be charged as indicated below only upon entry and exit.)

Vehicle Class	Description	Direction of Travel	Entry or Exit	1	5	10	17	21	23
2	Cars, Motorcycles and Other 2 Axle Vehicles	West	Entry	\$1.25	\$-0-	\$-0-	\$0.50	\$0.50	\$0.50
			Exit	1.25	1.00	0.75	-0-	-0-	-0-
		East	Entry	1.25	1.00	0.75	-0-	-0-	-0-
			Exit	1.25	-0-	-0-	0.50	0.50	0.50
3	Three Axle Vehicles or Combination	West	Entry	1.75	-0-	-0-	0.75	0.75	0.75
			Exit	1.75	1.50	1.00	-0-	-0-	-0-
		East	Entry	1.75	1.50	1.00	-0-	-0-	-0-
			Exit	1.75	-0-	-0-	0.75	0.75	0.75
4	Four Axle Vehicles or Combination	West	Entry	3.75	-0-	-0-	1.50	1.50	1.50
			Exit	3.75	3.00	2.25	-0-	-0-	-0-
		East	Entry	3.75	3.00	2.25	-0-	-0-	-0-
			Exit	3.75	-0-	-0-	1.50	1.50	1.50
5	Five Axle Vehicles or Combination	West	Entry	4.75	-0-	-0-	2.00	2.00	2.00
			Exit	4.75	4.00	3.00	-0-	-0-	-0-
		East	Entry	4.75	4.00	3.00	-0-	-0-	-0-
			Exit	4.75	-0-	-0-	2.00	2.00	2.00
6	Six Axle Vehicles or Combination	West	Entry	5.75	-0-	-0-	2.25	2.25	2.25
			Exit	5.75	4.50	3.50	-0-	-0-	-0-
		East	Entry	5.75	4.50	3.50	-0-	-0-	-0-
			Exit	5.75	-0-	-0-	2.25	2.25	2.25
7	Seven or More Axle Vehicles or Combination (includes oversize/overweight) and all Triple and Long Double Tractor Trailers	West	Entry	8.50	-0-	-0-	3.50	3.50	3.50
			Exit	8.50	6.75	5.00	-0-	-0-	-0-
		East	Entry	8.50	6.75	5.00	-0-	-0-	-0-
			Exit	8.50	-0-	-0-	3.50	3.50	3.50

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Class 4 (Four Axle Vehicles of Combination)

	24 Portage Barrier												
31	1.50	31 Valparaiso-Chesterton											
39	2.25	1.50	39 Michigan City										
49	3.75		1.50	49 La Porte									
72	7.50	6.00	5.25	3.75	72 South Bend-West								
77	8.25	6.75	6.00	4.50	1.50	77 South Bend-ND							
83	9.00	7.50	6.75	5.25	1.50	1.50	83 Mishawaka						
92	10.50	9.00	8.25	6.75	3.00	2.25	1.50	92 Elkhart					
96	11.25	9.75	8.25	6.75	3.75	3.00	2.25	1.50	96 Elkhart-East				
101	12.00	10.50	9.00	7.50	4.50	3.75	3.00	1.50	1.50	101 Bristol			
107	12.75	11.25	10.50	9.00	5.25	4.50	3.75	2.25	1.50	1.50	107 Middlebury		
121	15.00	13.50	12.75	11.25	7.50	6.75	6.00	4.50	3.75	3.00	2.25	121 Howe	
144	18.00	17.25	15.75	14.25	11.25	10.50	9.00	7.50	7.50	6.75	5.25	3.75	144 Angola
153	20.25	18.75	18.00	16.50	12.75	12.00	11.25	9.75	9.00	8.25	7.50	5.25	2.25

Class 5 (Five Axle Vehicles of Combination)

	24 Portage Barrier												
31	2.00	31 Valparaiso-Chesterton											
39	3.00	2.00	39 Michigan City										
49	4.75	4.00	2.00	49 La Porte									
72	9.75	7.75	6.75	4.75	72 South Bend-West								
77	10.75	8.75	7.75	5.75	2.00	77 South Bend-ND							
83	11.75	9.75	8.75	6.75	2.00	2.00	83 Mishawaka						
92	13.50	11.75	10.75	8.75	4.00	3.00	2.00	92 Elkhart					
96	14.50	12.75	10.75	8.75	4.75	4.00	3.00	2.00	96 Elkhart-East				
101	15.50	13.50	11.75	9.75	5.75	4.75	4.00	2.00	2.00	101 Bristol			
107	16.50	14.50	13.50	11.75	6.75	5.75	4.75	3.00	2.00	2.00	107 Middlebury		
121	19.50	17.50	16.50	14.50	9.75	8.75	7.75	5.75	4.75	4.00	3.00	121 Howe	
144	23.25	22.25	20.50	18.50	14.50	13.50	11.75	9.75	9.75	8.75	6.75	4.75	144 Angola
153	26.25	24.25	23.25	21.50	16.50	15.50	14.50	12.75	11.75	10.75	9.75	6.75	3.00

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(1) The authority's or the department's:

- (A) members;
- (B) officers;
- (C) employees;
- (D) agents; and
- (E) representatives. ~~of the authority or the department;~~

(2) Police officers of:

- (A) The United States. ~~of the state of or~~
- (B) Indiana or its political subdivisions;

while in discharge of their official duties. ~~and~~

(3) Fire or other authorized emergency vehicles entering the toll road:

- (A) for the purpose of performing emergency services; ~~or~~
- (B) **as authorized by the authority.**

(Indiana Finance Authority; 135 IAC 2-5-5; filed Dec 6, 1983, 1:52 p.m.: 7 IR 327; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 16. 135 IAC 2-7-1 IS AMENDED TO READ AS FOLLOWS:

Rule 7. Longer Combination Vehicle Operations

135 IAC 2-7-1 Permit required

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 1. ~~Trailer combinations~~ LCVs may operate on the toll road:

- (1) only under an annual ~~tandem trailer~~ permit issued by the ~~department's general manager~~ **department under section 21 of this rule;** and
- (2) subject to compliance by the ~~permittee~~ **permitted company** with ~~135 IAC 2-7-1; this rule.~~

(Indiana Finance Authority; 135 IAC 2-7-1; filed Dec 6, 1983, 1:52 p.m.: 7 IR 327; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 17. 135 IAC 2-7-2 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-2 Definitions; length and axle limits

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 2. (a) ~~Tandem trailers—A tandem trailer combination~~ **An LCV double** shall consist of a:

- (1) truck-tractor;
- (2) semitrailer; and
- (3) trailer.

Neither the semitrailer nor the trailer shall be longer than forty-eight (48) feet, six (6) inches in length. The permissible number of axles on a ~~tandem trailer~~ **an LCV double** combination shall be a minimum of five (5) and a maximum of nine (9).

(b) ~~An LCV triple trailer combinations—A triple trailer combination~~ shall consist of:

- (1) a truck-tractor;

(2) a semitrailer; and

(3) two (2) trailers.

Neither the semitrailer nor either of the two (2) trailers shall be longer than twenty-eight (28) feet, six (6) inches in length. The permissible number of axles of ~~a an LCV triple trailer~~ combination shall be a minimum of seven (7) and a maximum of nine (9). *(Indiana Finance Authority; 135 IAC 2-7-2; filed Dec 6, 1983, 1:52 p.m.: 7 IR 327; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)*

SECTION 18. 135 IAC 2-7-3 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-3 Weight limits

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 3. The maximum gross weight for a ~~trailer combination~~ **an LCV** shall be governed by the formula **ninety thousand** (90,000) pounds plus **one thousand seventy** (1,070) pounds per foot for each foot of combination length (front bumper to end of combination) in excess of sixty (60) feet. However, any ~~such combination of vehicles may~~ **LCV shall** not exceed a total maximum gross weight of **one hundred twenty-seven thousand four hundred** (127,400) pounds. The gross load of a ~~combination of vehicles~~ **an LCV** shall not exceed the sum of allowable gross loads on the axles, which are as follows:

(1) ~~The~~ maximum gross weight on any one (1) axle: **twenty-two thousand four hundred** (22,400) pounds. Axles measuring less than forty (40) inches between axle centers are considered one (1) axle.

(2) ~~The~~ maximum combined axle load of any two ~~successive~~ **(2) successive** axles, spaced more than forty (40) inches apart but less than nine (9) feet apart: **thirty-six thousand** (36,000) pounds.

No ~~such combinations~~ **LCV** will be permitted to leave the toll road for travel as combinations upon the state highways of Indiana without a permit from the ~~Indiana~~ department of ~~highways~~ **state revenue**. The maximum gross weight and axle weight of vehicles leaving the toll road as singles to travel upon the public highways of Indiana must comply with ~~the~~ Indiana state law. *(Indiana Finance Authority; 135 IAC 2-7-3; filed Dec 6, 1983, 1:52 p.m.: 7 IR 328; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)*

SECTION 19. 135 IAC 2-7-5 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-5 Classification for toll collection purposes

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 5. Qualified ~~trailer combinations~~ LCVs shall be issued ~~charged~~ a rate indicator ~~8 7 toll ticket~~ by the toll attendant at the point of entry and the appropriate fare charged according to ~~that vehicle classification~~. *(Indiana Finance Authority; 135 IAC*

2-7-5; filed Dec 6, 1983, 1:52 p.m.: 7 IR 328; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 20. 135 IAC 2-7-6 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-6 Safety and performance requirements

Authority: IC 8-15-2-17; IC 8-15-2-17.2
 Affected: IC 8-2.1-24; IC 8-15-2

Sec. 6. A responsible officer of the applicant shall certify to the department, ~~prior to before~~ the approval of a truck-tractor, ~~start of operations~~, that the ~~vehicle vehicles and equipment~~ proposed to be furnished and used for ~~specified gross loads~~ **LCV operations** will comply with and meet all minimum safety and performance factors of the department. If it is determined, after the truck-tractor is engaged in the trailer operation, that the vehicle cannot meet such requirements, the truck-tractor shall not be used in a trailer combination on the toll road until corrective measures are taken to comply with the department's requirements: **required by IC 8-2.1-24.** (Indiana Finance Authority; 135 IAC 2-7-6; filed Dec 6, 1983, 1:52 p.m.: 7 IR 328; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 21. 135 IAC 2-7-7 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-7 Emergency equipment

Authority: IC 8-15-2-17; IC 8-15-2-17.2
 Affected: IC 8-2.1-24; IC 8-15-2; IC 9-19

Sec. 7. Each truck-tractor used in ~~trailer combinations~~ **LCV operations** shall be equipped at a minimum with emergency equipment as required by the Indiana Acts of 1955, Chapter 170, page 415, and acts amendatory thereof, and as further provided herein: (~~IC 9-8-6-1 et seq.~~) **IC 8-2.1-24.**

- (1) A fire extinguisher which shall utilize an extinguishing agent which does not need protection from freezing, and which shall be properly filled and securely mounted in brackets. Such extinguisher shall have a rating of not less than 4BC as classified under the standards of Underwriters Laboratories, Inc., 333 Pfingston, Northbrook, Illinois.
- (2) At least one (1) spare fuse or other overload protective device, if the devices used are not of a reset type, for each kind and size used.
- (3) One (1) set of tire chains for at least one (1) axle of the truck-tractor and, in the event the truck-tractor is required by this section to have more than one (1) drive axle, chains shall be provided for the second axle, unless the truck-tractor is so equipped that the axle equipped with chains will be positively driven when the second axle is without chains. Such chains shall be carried whenever the combination of vehicles is operating during an accumulation of snow or ice on the pavement of the Indiana toll road. Stalling because of an accumulation of snow or ice and failure to be so equipped with the required chains shall subject permittee to revocation

of its permit to operate tandem trailer combinations on the toll road:

(4) All wheels of the combination of vehicles shall be equipped with tires with not less than $\frac{3}{32}$ ($\frac{1}{16}$) inch tread groove or sipe depth when measured as near to the center of the tread as possible, except the steering tires which should have not less than $\frac{1}{32}$ ($\frac{1}{8}$) inch tread groove. Tread wear shall be reasonably uniform over the whole circumference of the tire.

(5) Warning devices for display in cases of disabled vehicles upon the toll road as required by Indiana Acts of 1955, Chapter 170, page 416, and acts amendatory thereof: (~~IC 9-8-6-1, et. seq.~~)

(Indiana Finance Authority; 135 IAC 2-7-7; filed Dec 6, 1983, 1:52 p.m.: 7 IR 328; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 22. 135 IAC 2-7-8 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-8 Structural strength

Authority: IC 8-15-2-17; IC 8-15-2-17.2
 Affected: IC 8-15-2

Sec. 8. Every vehicle used for towing other vehicles in ~~trailer combinations~~ **LCV operations** shall have sufficient structural strength to ~~insure ensure~~ the safe and secure attachment of any coupling device used to tow other vehicles. (Indiana Finance Authority; 135 IAC 2-7-8; filed Dec 6, 1983, 1:52 p.m.: 7 IR 329; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 23. 135 IAC 2-7-11 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-11 Lights and reflectors

Authority: IC 8-15-2-17; IC 8-15-2-17.2
 Affected: IC 8-2.1-24; IC 8-15-2

Sec. 11. Each unit in a ~~trailer combination an~~ **LCV** shall be equipped at a minimum with:

- (1) electric lights; and
 - (2) reflectors;
- mounted on the vehicle as required by Indiana Acts of 1955, Chapter 170, page 416, and acts amendatory thereof: (~~IC 9-8-6-1, et. seq.~~) **IC 8-2.1-24.** (Indiana Finance Authority; 135 IAC 2-7-11; filed Dec 6, 1983, 1:52 p.m.: 7 IR 329; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 24. 135 IAC 2-7-12 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-12 Coupling devices

Authority: IC 8-15-2-17; IC 8-15-2-17.2
 Affected: IC 8-15-2

Sec. 12. Coupling devices shall be ~~so~~ designed, constructed, and installed and the vehicles in a ~~trailer combination an~~ **LCV**

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shall be ~~so~~ designed and constructed as to ~~insure~~ **ensure** that any ~~such combination~~ LCV traveling on a level, smooth, paved surface will follow in the path of the towing vehicle without shifting or swerving from side to side over three (3) inches to each side of the path of the towing vehicle when ~~it~~ **the towing vehicle** is moving in a straight line. (*Indiana Finance Authority; 135 IAC 2-7-12; filed Dec 6, 1983, 1:52 p.m.: 7 IR 329; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 25. 135 IAC 2-7-13 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-13 Assembly of LCVs

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 13. In the assembly of ~~trailer combinations~~ **prior to LCVs before** their operation on the Indiana toll road, the ~~permittee~~ **permitted company** shall **do the following**:

- (1) Ascertain the total gross weight of each trailer of the proposed combination. ~~The permittee shall~~
- (2) Couple them according to their gross weights with the:
 - (A) heaviest trailer coupled to the tractor; and ~~the~~
 - (B) lightest trailer in the rear.

(*Indiana Finance Authority; 135 IAC 2-7-13; filed Dec 6, 1983, 1:52 p.m.: 7 IR 329; errata, 7 IR 1054; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 26. 135 IAC 2-7-14 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-14 Police inspection

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 14. ~~Trailer combinations~~ LCVs are subject to inspection by a police officer ~~prior to~~ **before** initial movement by any newly ~~authorized~~ **permitted** company. The inspection is designed to **do the following**:

- (1) Instruct drivers in the proper use of ~~make-up and break-up~~ **assembly** areas. ~~and to~~
- (2) Satisfy the department that the equipment meets the qualifications set forth in this section.

Spot checks of ~~trailer combinations~~ LCVs may be made periodically at the discretion of any police officer. (*Indiana Finance Authority; 135 IAC 2-7-14; filed Dec 6, 1983, 1:52 p.m.: 7 IR 329; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 27. 135 IAC 2-7-15 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-15 Assembly areas

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 15. ~~Trailer combinations~~ LCVs shall be made up and broken up ~~on the toll road~~ only in special assembly areas

designated for this purpose by the department. All movements across traffic while entering or leaving a ~~make-up/break-up~~ **an assembly** area shall be properly safeguarded. (*Indiana Finance Authority; 135 IAC 2-7-15; filed Dec 6, 1983, 1:52 p.m.: 7 IR 329; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 28. 135 IAC 2-7-16 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-16 Speed limits

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 16. ~~Trailer combinations~~ LCVs shall comply with existing speed regulations. A minimum speed of forty-five (45) miles per hour must be maintained on the toll road under normal conditions, except on entry and exit ramps (135 IAC 2-2-1). (*Indiana Finance Authority; 135 IAC 2-7-16; filed Dec 6, 1983, 1:52 p.m.: 7 IR 330; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 29. 135 IAC 2-7-17 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-17 Minimum distances between LCVs and other vehicles

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 17. A minimum distance of five hundred (500) feet shall be maintained under normal conditions between: ~~trailer combinations~~

(1) LCVs; and

(2) a vehicle traveling in front of ~~it~~ **the LCV** in the same travel lane;

except when passing occurs. (*Indiana Finance Authority; 135 IAC 2-7-17; filed Dec 6, 1983, 1:52 p.m.: 7 IR 330; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 30. 135 IAC 2-7-18 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-18 Passing

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 18. (a) ~~Trailer combinations~~ LCVs may pass another vehicle traveling in the same direction only if the speed differential will allow the ~~trailer combination~~ LCV to:

(1) complete the maneuver; and

(2) return to the normal driving lane;

within a distance of one (1) mile.

(b) ~~Trailer combinations~~ LCVs shall not pass another vehicle traveling the same direction within one (1) mile of any ~~service area~~ **travel plaza** or interchange. (*Indiana Finance Authority; 135 IAC 2-7-18; filed Dec 6, 1983, 1:52 p.m.: 7 IR 330; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 31. 135 IAC 2-7-19 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-19 Equipment identification

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 19. Application for permission to operate trailer combinations on the toll road LCVs shall be filed with the department on forms provided, including a description of each vehicle making up trailer combinations: **identified visually as follows:**

(1) Upon approval by the department's general manager of the application for a truck-tractor to operate in trailer combination service; An identification number issued by the department shall be stenciled at a designated location on that as follows:

- (A) In three (3) inch high block letters.
- (B) In a contrasting color to that of the truck-tractor.
- (C) On the left side of the vehicle.
- (D) In a location where it can be seen by the toll attendant in the booth.

The number shall identify the company as a permitted company to operate LCVs on the toll road.

(2) In addition, upon approval of a truck-tractor, a certificate shall be issued by the department for the truck-tractor as approved. Such certificate shall be suitably protected and carried in the cab of the truck-tractor in a place where it shall be readily available for inspection.

(2) Permitted companies shall do the following:

- (A) Maintain current lists of all stenciled and active truck-tractors used in LCV operations on the toll road.
- (B) Provide these lists to the department upon request.

(Indiana Finance Authority; 135 IAC 2-7-19; filed Dec 6, 1983, 1:52 p.m.: 7 IR 330; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 32. 135 IAC 2-7-20 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-20 Driver requirements

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-2.1-24; IC 8-15-2

Sec. 20. (a) Drivers shall possess the minimum qualifications as required by the state of Indiana for drivers operating vehicles within the state, and as further provided herein: **drivers must do the following:**

- (1) Comply with all applicable requirements of IC 8-2.1-24.
- (2) Possess a valid Class A commercial driver's license (CDL) with appropriate endorsements for operation of LCVs.

(b) Drivers of trailer combinations LCVs on the toll road: (1) must be:

- (A) not less than twenty-six (26) years of age; and
- (B) in good health; and

(2) shall have not less than five (5) years of provable experience in driving:

- (A) semitrailer; or
- (B) tandem trailer type;

motor vehicles Such driving experience shall include experience throughout the four (4) seasons.

(2) An applicant (c) A permitted company's application for a driver permit under section 21 of this rule will be rejected by the department if the driver's license has been:

- (A) his license has been revoked more than once in the past ten (10) years; or
- (B) his license has been suspended more than twice in the past ten (10) years;
- (C) his record of major traffic violations shows more than five (5) points in the preceding two (2) years or seven (7) points in the preceding three (3) years;
- (D) his record of chargeable (preventable) accidents shows more than two (2) in the preceding five (5) years or more than one (1) in the preceding two (2) years on the toll road; or more than two (2) in the preceding two (2) years off the toll road. In any case, the maximum total is two (2) in the preceding two (2) years.

(Indiana Finance Authority; 135 IAC 2-7-20; filed Dec 6, 1983, 1:52 p.m.: 7 IR 330; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 33. 135 IAC 2-7-21 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-21 Driver permits

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 21. (a) A proposed driver of trailer combinations permitted company shall make application on the prescribed a form which provided by the department that includes the driver's applicant's driving and safety record employment history. The application must be accompanied by the following:

- (1) An official abstract of his the applicant's driving record. In the event of any accidents during the five years immediately preceding the application, copies of reports of all such accidents must be submitted. In addition, the driver must have a physical examination not less than every two (2) years; and
- (2) A copy photocopy of the physical examination certificate must accompany his application: applicant's current CDL.

(b) Upon approval by the department, an identification card bearing a permit number will be issued to the driver permitted company. The driver must carry the card with him or her at all times while operating tandem trailer combinations LCVs on the toll road for presentation upon request by:

- (1) toll road personnel; or
- (2) a police officer.

(c) The driver identification card is valid only for the opera-

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tion of tractors:

(1) owned by; or
(2) under the control of;
the **permitted** company to which the **driver** permit is issued.

(d) The department does not accept driver applications from individuals. ~~Such~~ Applications are accepted only from **permitted** companies. ~~holding permits for the operation of trailer combinations on the toll road.~~ All correspondence in connection therewith shall be handled through the companies, not the drivers.

(e) The accuracy of the information in a driver application must be attested to by an officer of the company, who, in doing so, assumes sole responsibility for the representation made to the department. ~~by the driver.~~

(f) **Permitted companies shall do the following:**

(1) **Maintain current lists of all active permitted drivers for LCV operations on the toll road.**

(2) **Provide these lists to the department upon request.**

(Indiana Finance Authority; 135 IAC 2-7-21; filed Dec 6, 1983, 1:52 p.m.: 7 IR 330; errata, 7 IR 1054; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 34. 135 IAC 2-7-22 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-22 Temporary suspension of LCV permits

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 22. Permission to operate ~~trailer combinations~~ **LCVs** on the toll road may be temporarily suspended by the department at any time due to **any of the following:**

- (1) Weather conditions.
- (2) Unfavorable road conditions.
- (3) Holiday traffic. ~~and~~
- (4) Any other emergency conditions.

(Indiana Finance Authority; 135 IAC 2-7-22; filed Dec 6, 1983, 1:52 p.m.: 7 IR 331; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 35. 135 IAC 2-7-23 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-23 Insurance coverage

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 23. **An** applicant for ~~trailer combination~~ **an LCV** operating permit shall furnish to the department a certificate attesting to the fact that there has been secured by the applicant public liability insurance affording coverages of not less than **the following:**

- (1) **Five hundred thousand dollars/one million dollars** (\$500,000/\$1,000,000) for all damages arising from bodily

injury, including death. ~~and~~

- (2) **One hundred thousand dollars/five hundred thousand dollars** (\$100,000/\$500,000) for property damage, including damage to toll road property and facilities.

The named insured thereon shall include the department **and** its officers, agents, and employees, and the certificate shall indicate that the policy contains an endorsement ~~reading as follows:~~ **that reads,** "The inclusion of the Indiana department of ~~highways,~~ **toll road division,** **transportation** as an additional named insured shall not exclude coverage of liability of the named insured for damage of property of the additional named insured, or for injury to or death of any person working with or for the additional named insured.". ~~Such~~ **The** certificate shall also provide that the coverage under the policy may not be ~~cancelled~~ **cancelled** without thirty (30) days prior notice to the department. (Indiana Finance Authority; 135 IAC 2-7-23; filed Dec 6, 1983, 1:52 p.m.: 7 IR 331; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 36. 135 IAC 2-7-24 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-7-24 Applicability of other rules

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 24. Except as noted herein and in the ~~trailer combination~~ **LCV operations** permit, all rules ~~and regulations~~ for the control and regulation of traffic on the toll road shall apply to the operation of ~~trailer combinations~~ **LCVs** on the toll road. (Indiana Finance Authority; 135 IAC 2-7-24; filed Dec 6, 1983, 1:52 p.m.: 7 IR 331; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 37. 135 IAC 2-8-1 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-8-1 Permit required

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 1. Michigan trains may operate on the toll road:

- (1) only under a Michigan train single trip permit issued by the department **of state revenue;** and
- (2) subject to compliance by the permittee with ~~135 IAC 2-8-~~ **this rule.**

(Indiana Finance Authority; 135 IAC 2-8-1; filed Dec 6, 1983, 1:52 p.m.: 7 IR 331; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 38. 135 IAC 2-8-3 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-8-3 Weight limits

Authority: IC 8-15-2-17; IC 8-15-2-17.2

Affected: IC 8-15-2

Sec. 3. (a) The maximum gross weight for a Michigan train

shall be **one hundred twenty-seven thousand four hundred** (127,400) pounds. ~~maximum~~. Gross weight on any one (1) axle shall be **twenty-two thousand four hundred** (22,400) pounds. Axles measuring less than forty (40) inches between centers are considered one (1) axle.

(b) The maximum combined axle loads of any two (2) successive axles spaced more than forty (40) inches apart but less than nine (9) feet apart shall be **thirty-six thousand** (36,000) pounds. No such combination will be permitted to leave the toll road for travel upon the state highways of Indiana without a permit from the ~~Indiana~~ department of ~~highways~~. **state revenue**. The maximum gross weight and axle weights of vehicles leaving the toll road as singles to travel the public highways of Indiana must comply with Indiana state law. (*Indiana Finance Authority; 135 IAC 2-8-3; filed Dec 6, 1983, 1:52 p.m.: 7 IR 331; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 39. 135 IAC 2-8-5 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-8-5 Permits

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 5. Michigan train permits for specified one-way movements may be obtained from the ~~Indiana~~ department of ~~highways~~, ~~toll road division~~. **state revenue**. The permits do not include the rate indicator ~~8 7~~ toll, which must be paid as provided in the rules. For information regarding Michigan train permits, contact the ~~Indiana~~ department of ~~Highways, Toll Road Division~~ at ~~52551~~ Ash Road, P.O. Box ~~1~~, Granger, Indiana ~~46530-0001~~ **state revenue**. (*Indiana Finance Authority; 135 IAC 2-8-5; filed Dec 6, 1983, 1:52 p.m.: 7 IR 332; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 40. 135 IAC 2-8-7 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-8-7 Emergency equipment

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-2.1-24; IC 8-15-2; IC 9-19

Sec. 7. Each truck-tractor used in the Michigan train operation shall be equipped at a minimum with emergency equipment as required by the ~~Indiana Acts of 1955, Chapter 170, page 416, and acts amendatory thereof, and as further provided herein: (IC 9-8-6-1, et. seq.)~~ **IC 8-2.1-24**.

- (1) A fire extinguisher which shall utilize an extinguishing agent which does not need protection from freezing; and which shall be properly filled and securely mounted in brackets. Such extinguisher shall have a rating of not less than ~~4BC~~ as classified under the standards of Underwriters Laboratories, Inc., 333 Pfingston, Northbrook, Illinois.
- (2) At least one (1) spare fuse or other overload protective

device; if the devices used are not of a reset type, for each kind and size used:

(3) One (1) set of tire chains for at least one (1) axle of the truck-tractor and; in the event the truck-tractor is required by this section to have more than one (1) drive axle, chains shall be provided for the second axle; unless the truck-tractor is so equipped that the axle equipped with chains will be positively driven when the second axle is without chains. Such chains shall be carried whenever the combination of vehicles is operating during an accumulation of snow or ice on the pavement of the Indiana toll road. Stalling because of an accumulation of snow or ice and failure to be so equipped with the required chains shall subject permittee to revocation of its permit to operate Michigan train combinations on the toll road:

(4) All wheels of the combination of vehicles shall be equipped with tires with not less than $\frac{3}{32}$ ($\frac{1}{16}$) inch tread groove or sipe depth when measured as near to the center of the tread as possible; except the steering tires which should have not less than $\frac{4}{32}$ ($\frac{1}{8}$) inch tread groove. Tread wear shall be reasonably uniform over the whole circumference of the tire.

(5) Warning devices for display in cases of disabled vehicles upon the toll road as required by Indiana Acts of 1955; Chapter 170; page 416; and acts amendatory thereof: (~~IC 9-8-6-1, et. seq.~~)

(*Indiana Finance Authority; 135 IAC 2-8-7; filed Dec 6, 1983, 1:52 p.m.: 7 IR 332; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 41. 135 IAC 2-8-11 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-8-11 Lights and reflectors

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-2.1-24; IC 8-15-2; IC 9-19-6

Sec. 11. Each unit in a Michigan train combination shall be equipped at a minimum with:

- (1) electric lights; and
- (2) reflectors;

mounted on the vehicle as required by ~~Indiana Acts of 1955, Chapter 170, page 416, and acts amendatory thereof: (IC 9-8-6-1, et seq.)~~ **IC 8-2.1-24 and IC 9-19-6**. (*Indiana Finance Authority; 135 IAC 2-8-11; filed Dec 6, 1983, 1:52 p.m.: 7 IR 333; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882*)

SECTION 42. 135 IAC 2-10-2 IS AMENDED TO READ AS FOLLOWS:

135 IAC 2-10-2 Severability provision

Authority: IC 8-15-2-17; IC 8-15-2-17.2
Affected: IC 8-15-2

Sec. 2. If any rule or application of any rule is held invalid or void, the invalidity or voidness affects the remainder of the

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authority's rules only to the extent that the remainder is:

- (1) so essentially and inseparably connected with, and so dependent on, the invalid or void provision or application that it cannot be presumed that the remainder would have been issued without the invalid or void provision or application; or
- (2) incomplete and incapable of being executed without the invalid or void provision or application.

(Indiana Finance Authority; 135 IAC 2-10-2; filed Dec 6, 1983, 1:52 p.m.: 7 IR 334; readopted filed Nov 6, 2002, 10:33 a.m.: 26 IR 882)

SECTION 43. THE FOLLOWING ARE REPEALED: 135 IAC 2-5-2; 135 IAC 2-10-1.

SECTION 44. SECTIONS 1 through 43 of this document take effect April 3, 2006.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 8, 2005 at 10:00 a.m., at One North Capitol, Ninth Floor, Indianapolis, Indiana the Indiana Finance Authority will hold a public hearing on proposed amendments concerning the Indiana East-West Toll Road, published currently at 135 IAC 2, to amend the current toll rate structure on the Indiana Toll Road and amend certain terms and phrases and other provisions of the current rules to reflect current law, usage, and circumstance.

The Indiana Toll Road has needs for major projects along the Toll Road for widening and interchange projects as well as general reconstruction of aging highway surfaces. These needs cannot be met with the current budget. In addition, since the Toll Road serves as a critical transportation link to the urbanized areas in northern Indiana, a high priority needs to be placed on maintaining adjacent state and local routes as well to attract commerce that results in additional Toll Road trips. An increase in the toll rates will address both the Toll Road's needs as well as improvements to state and local transportation needs in Toll Road counties. Current Toll Road revenue does not allow the Toll Road to build these needed projects on or near the Toll Road. The amendments to reflect current law, usage, and circumstance are necessary because of updates in the law.

Data, studies, and analyses relied upon by IFA in determining that the imposition of the requirement or cost is necessary are:

- A) Capital Improvement Projects Program, May 4, 2005, RQAW.
- B) Rate Review and Revenue Projections Study August 2005-Wilbur Smith Associates.
- C) MAJOR MOVES: INDOT Ten Year Draft Major New Construction Program.

Copies of all documentation relied upon are now on file at the Indiana Finance Authority, One North Capitol, Ninth Floor, Indianapolis, Indiana 46204 and are open for copying and public inspection.

Copies of these rules are now on file at the Indiana Finance Authority, One North Capitol, Ninth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Charles E. Schalliol
Chairman
Indiana Finance Authority

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #05-213

DIGEST

Amends 312 IAC 18-3-12, which governs standards for the control of the larger pine shoot beetle, by adding Dearborn County to the state quarantine area. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

The proposed rule would not impose requirements or costs under IC 4-22-2-24(d)(3). The proposal would make permanent a temporary rule (LSA Document #05-148(E)) that adds Dearborn County to the Indiana state quarantine of the larger pine shoot beetle (*Tomicus piniperda*). The U.S. Department of Agriculture, through the Animal and Plant Health Inspection Service (APHIS), issued a memorandum on June 1, 2005. The APHIS memorandum provides for the interim designation of Dearborn County as a quarantined area for the pine shoot beetle, pending publication of an amended federal regulation at 7 CFR 301.50 to make the quarantine permanent. According to 7 CFR 301.50-2(a), "less than an entire state will be designated as a quarantined area only if" the state adopts and enforces a quarantine and rule that impose restrictions on the intrastate movement of the species equivalent to the federal regulation. If Indiana fails to make permanent the current emergency quarantine of the larger pine shoot beetle in Dearborn County, the entire state of Indiana would become subject to a federal quarantine by the U.S. Department of Agriculture. A failure to adopt the proposed rule would impose requirements or costs on small businesses for Indiana counties not already subject to a federal or state quarantine.

312 IAC 18-3-12

SECTION 1. 312 IAC 18-3-12, AS AMENDED AT 28 IR 2951, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

312 IAC 18-3-12 Control of larger pine shoot beetles

Authority: IC 14-10-2-4; IC 14-24-3
Affected: IC 14-24

Sec. 12. (a) The larger pine shoot beetle (*Tomicus piniperda*)

is a pest or pathogen. This section governs standards for the control of the larger pine shoot beetle in Indiana.

(b) Except as provided in subsection (c), the division has determined Indiana is an infested area where the larger pine shoot beetle is present.

(c) Exempted from subsection (b) are the following counties:

- (1) Clark.
- (2) Clay.
- (3) Crawford.
- (4) Daviess.
- ~~(5) Dearborn.~~
- ~~(6) (5) Dubois.~~
- ~~(7) (6) Floyd.~~
- ~~(8) (7) Gibson.~~
- ~~(9) (8) Greene.~~
- ~~(10) (9) Harrison.~~
- ~~(11) (10) Jackson.~~
- ~~(12) (11) Jefferson.~~
- ~~(13) (12) Knox.~~
- ~~(14) (13) Lawrence.~~
- ~~(15) (14) Martin.~~
- ~~(16) (15) Ohio.~~
- ~~(17) (16) Orange.~~
- ~~(18) (17) Perry.~~
- ~~(19) (18) Pike.~~
- ~~(20) (19) Posey.~~
- ~~(21) (20) Scott.~~
- ~~(22) (21) Spencer.~~
- ~~(23) (22) Sullivan.~~
- ~~(24) (23) Switzerland.~~
- ~~(25) (24) Vanderburgh.~~
- ~~(26) (25) Warrick.~~
- ~~(27) (26) Washington.~~

(d) The following items are regulated articles:
 (1) The larger pine shoot beetle in any life stage.
 (2) Entire plants or parts of the genus pine (*Pinus* spp.).
 Exempted from this subdivision are plants that conform to each of the following:

- (A) Are less than thirty-six (36) inches high.
 - (B) Are one (1) inch in basal diameter or less.
- (3) Logs and lumber of pine with bark attached. Exempted from this subdivision are logs of pine and pine lumber with bark attached if:
- (A) the source tree was felled during the period of July through October; and
 - (B) the logs and lumber are shipped from the quarantined area during the period of July through October.
- (4) Any other article, product, or means of conveyance if determined by the division director to present the risk of spread of the larger pine shoot beetle.

(e) The following actions are ordered within the infested area:

(1) The movement by a person of a regulated article to a destination outside the infested area is prohibited, except under the following conditions:

- (A) A thorough examination of all nursery stock takes place on a piece by piece basis.
- (B) A statistically based examination of Christmas trees is made according to the following schedules:

TABLE 1. PAINTED (COLOR-ENHANCED)
PINE CHRISTMAS TREES¹

No. of Trees in Shipment	No. of Trees to Sample	No. of Trees in Shipment	No. of Trees to Sample
1 – 72	All	700 – 800	120
73 – 100	73	801 – 900	121
101 – 200	96	901 – 1,000	122
201 – 300	106	1,001 – 2,000	126
301 – 400	111	2,001 – 3,000	127
401 – 500	115	3,001 – 5,000	128
501 – 600	117	5,001 – 10,000	129
601 – 700	119	10,001 or more	130

¹If a pine shoot beetle is detected in any one (1) of the trees being sampled, the entire shipment must be rejected. If no pine shoot beetle is detected in any of the trees sampled, the shipment will be allowed to move with a limited permit. The limited permit must state, “All trees that remain unsold as of December 25 must be destroyed by burning or chipping or must be fumigated prior to January 1.”

TABLE 2. NATURAL (UNPAINTED)
CHRISTMAS TREES¹

No. of Trees in Shipment	No. of Trees to Sample	No. of Trees in Shipment	No. of Trees to Sample
1 – 57	All	501 – 600	80
58 – 100	58	601 – 700	81
101 – 200	69	701 – 1,000	82
201 – 300	75	1,001 – 3,000	84
301 – 400	77	3,001 – 10,000	85
401 – 500	79	10,001 or more	86

¹If a pine shoot beetle is detected in any one (1) of the trees being sampled, the entire shipment must be rejected. If no pine shoot beetle is detected in any of the trees sampled, the shipment will be allowed to move with a limited permit. The limited permit must state, “All trees that remain unsold as of December 25 must be destroyed by burning or chipping or must be fumigated prior to January 1.”

(C) Following the examination, a determination is made that no life stages of the larger pine shoot beetle are present. The determination must be accompanied by either of the following:

- (i) A certificate of inspection approved by the division.
- (ii) A certificate or similar authorization issued by the U.S. Department of Agriculture under a parallel federal quarantine.

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(D) The certificate for the absence of the larger pine shoot beetle must be attached to and remain on the regulated articles until the articles reach their destinations. This requirement is, however, satisfied if the certificate is attached to the shipping document and the regulated article is adequately described on the shipping document of the certificate.

(2) A regulated article originating outside the infested area may move through the infested area without a certificate of inspection if the point of origin of the regulated article is indicated on the waybill or shipping documents and transportation conforms with this subdivision. Passage through the infested area must be made without stopping, except for refueling or traffic conditions, and shall be conducted within either of the following conditions:

(A) The ambient temperature is below fifty (50) degrees Fahrenheit.

(B) The regulated article is carried in an enclosed vehicle with an adequate covering to prevent access by the larger pine shoot beetle. Examples of an adequate covering include canvas, plastic, or loosely woven cloth.

(3) A regulated article originating outside the infested area that is moved into the infested area and exposed to potential infestation by the larger pine shoot beetle is considered to have originated from the infested area. Any regulated article under this subdivision is controlled by subdivision (1).

(4) The movement of a regulated article from an infested area through any noninfested area to another infested area is prohibited without a certificate for the absence of the larger pine shoot beetle except where both of the following conditions are met:

(A) Passage through a noninfested area is made without stopping, except for refueling or traffic conditions, if the ambient temperature is below fifty (50) degrees Fahrenheit or if in an enclosed vehicle with an adequate covering to prevent access by the larger pine shoot beetle.

(B) The waybill or shipping documents accompanying any shipment of regulated articles within or through Indiana indicate the county and state of origin of the regulated articles.

(5) Any regulated article imported or moved within Indiana in violation of this section shall be immediately removed from any noninfested area or destroyed. The expense of compliance with this subdivision is the joint and several responsibility of any person possessing or owning the regulated article. Compliance with this subsection shall be performed under the direction of the division director.

(6) In addition to the penalty set forth in subdivision (5), a person who violates this section is subject to any administrative, civil, or criminal sanction set forth in IC 14-24 and this article.

(7) This section does not preclude the division director from issuing any permit under section 3 of this rule.

(Natural Resources Commission; 312 IAC 18-3-12; filed Nov 22, 1996, 3:00 p.m.: 20 IR 950; filed Dec 3, 1997, 3:30 p.m.: 21

IR 1273; filed Feb 9, 1999, 4:16 p.m.: 22 IR 1945; filed Apr 4, 2001, 3:02 p.m.: 24 IR 2404; filed May 16, 2002, 12:28 p.m.: 25 IR 3049; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 19, 2003, 8:50 a.m.: 26 IR 3313; filed May 25, 2005, 10:30 a.m.: 28 IR 2951)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 30, 2005 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on a proposed amendment to 312 IAC 18-3-12, which governs standards for the control of the larger pine shoot beetle, by adding Dearborn County to the state quarantine area.

The proposed rule would not impose requirements or costs under IC 4-22-2-24(d)(3).

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Kiley
Chairman
Natural Resources Commission

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #05-214

DIGEST

Amends 312 IAC 9 concerning taking, chasing, and possessing wild animals; fishing, hunting, and trapping without a license by owners and lessees of farmland; tagging requirements for deer hunting; hunting deer by firearms; coyotes; bobcats; river otters; badgers; endangered species of mammals; migratory birds and waterfowl; mute swans; tagging requirements for wild turkey hunting; turtle possession permits; taxidermist licenses; nuisance wild animal control permits; fur buyers' licenses; and confining, enclosing, and housing bobcats under a wild animal possession permit. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

The department of natural resources (DNR) estimates that some small businesses will be directly affected by some of the proposed rule changes. The natural resources commission has the authority to adopt rules under IC 14-10-2-4 and IC 14-22-2-6.

The new proposed rule governing the possession and sale of

bobcats, badgers, and river otters in 312 IAC 9-3-18.4 would likely affect approximately 58 licensed fur buyers and 600 licensed taxidermists. The removal of the bobcat, badger, and river otter from the state's endangered species list requires additional rules to provide for the protection of the wild populations in Indiana.

The new proposed rule in 312 IAC 9-4-5.5 governing the possession and sale of mute swans would affect approximately 16 entities, which may qualify as a small business under IC 4-22-2.1-4, that have sold mute swans in the past in Indiana.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

A licensed fur buyer or taxidermist, which may operate a small business and which possesses or sells a mounted specimen or other part of a bobcat, river otter, or badger, would be required to document how the carcass or untanned hide of a bobcat, river otter, or badger was obtained. In addition, a licensed fur buyer or taxidermist would be required to provide the purchaser with a receipt, tag, or copy of a license as documentation of where and how the carcass or untanned hide was obtained. These license holders should already be keeping this information for other species of animals that they possess. Licensed fur buyers would also have to issue valid, dated receipts when selling or trading any animal or part, but this requirement should not require significant administrative costs. The DNR estimates that new administrative costs incurred by a small business to comply with this rule will amount to approximately \$120 (\$10 per hour × 1 hour per month × 12 months).

In 312 IAC 9-4-5.5, the requirements that may apply to a small business are the need to obtain a free one-time permit to possess mute swans in captivity from the DNR and the prohibition on any future sale of mute swans. The DNR estimates that new administrative costs incurred by a small business to comply with this rule would amount to approximately \$20 (\$10 per hour × 2 hours to complete paperwork = \$20).

Estimated Total Annual Economic Impact on Small Businesses:

The DNR estimates that there will be an impact on small businesses as a result of compliance with these rules.

• Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law:

Approximately 58 licensed fur buyers and 600 licensed taxidermists would be able to sell mounted specimens and other parts of bobcats, river otters, or badgers that they were not previously able to sell when these species were listed as endangered, thereby creating additional revenue for these small businesses. The requirements on small business for the possession and sale of bobcats, river otters, and badgers is justified in order to ensure the protection of Indiana's wild populations of bobcats, badgers, and river otters and to provide documentation of the legal acquisition and sale of these species for law enforcement purposes.

Approximately 16 small businesses who have sold mute swans in the past in Indiana and may qualify as a small business as defined in IC 4-22-2.1-4 would no longer be able to sell mute

swans in Indiana. This proposed rule would have the following costs on the small businesses that sell mute swans and other waterfowl: \$500 per mute swan × 20 swans each = \$ 10,000 × 16 small businesses = \$160,000.

The requirement on small businesses that prohibits the sale of mute swans is justified in order to reduce the number of mute swans in the wild in Indiana. Mute swans are nonnative, aggressive birds that often exclude (and sometimes kill) native waterfowl from wetlands. They can be hostile toward humans, sometimes causing injury. Ecologically, mute swans can damage wetland habitats by overgrazing aquatic vegetation, leaving inadequate food and habitat for native wetland inhabitants. Allowing individuals and small businesses to continue to possess and sell mute swans will only contribute to the number of mute swans in the wild, affecting native species, and create more human conflicts with aggressive swans due to intentional or accidental escapes. Small businesses that sell waterfowl will still be allowed to sell domesticated species of swans as well as protected species of waterfowl as allowed by the U.S. Fish and Wildlife Service, including mallard ducks. The Department would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all who possess mute swans for law enforcement purposes.

• **Supporting Data, Studies, or Analyses:** The number of licensed fur buyers and licensed taxidermists was obtained from the list of license holders available from the DNR's Division of Fish and Wildlife. The number of business that sell mute swans was obtained from the U.S. Fish and Wildlife Service, Migratory Bird Permit Office, from a list of businesses the agency previously licensed to sell mute swans. The estimated selling price of mute swans was determined based on advertisements for the sale of mute swans. Research on mute swans populations in Indiana and their damage to native wetlands and other waterfowl was based upon research conducted by the DNR's Division of Fish and Wildlife's Waterfowl Biologist.

Regulatory Flexibility Analysis of Alternative Methods:

• **Explanation of Preliminary Determination:**

In 312 IAC 9-3-18.4, the requirement for licensed fur buyers or taxidermists could be reduced with one of the following options:

- (1) not require the paperwork to possess or sell a bobcat, badger, or river otter;
- (2) not allow them to sell these parts; or
- (3) do not propose this new rule, which would not allow an individual or a business to possess or sell a part of one of these three species of animals.

The paperwork is necessary to ensure that the animals were obtained lawfully and to protect the wild populations in Indiana from becoming endangered again, which would prohibit their possession and sale. A licensed fur buyer or taxidermist can make additional revenue by being able to sell the mounted specimen(s) or parts of these three species of animals. The DNR would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all license holders.

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In 312 IAC 9-4-5.5, the requirement for small businesses could be reduced with one of the following options:

- (1) allow mute swans to be sold without any requirements;
- (2) allow mute swans to be sold only if pinioned (unable to fly) and kept in an enclosure where escape is not possible and not require a permit; or
- (3) require a free permit with the conditions listed above, but allow their sale only by permit.

Small businesses that sell waterfowl will still be allowed to sell domesticated species of swans and other waterfowl species as allowed by the U.S. Fish and Wildlife Service, including mallard ducks. Allowing small businesses to continue to possess and sell mute swans will only contribute to the number of mute swans in the wild, affecting native species, and create more human conflicts with aggressive swans due to intentional or accidental escapes. The DNR would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all individuals who possess mute swans for law enforcement purposes.

In 312 IAC 9-10-5, the requirement for licensed taxidermists that are small businesses could be reduced with one of the following options:

- (1) not require the paperwork to possess or sell a bobcat, badger, or river otter;
- (2) not allow them to sell these parts; or
- (3) do not propose this rule change, which would not allow an individual or a business to possess or sell a part of one of these three species of animals.

The paperwork is necessary to ensure that the animals were obtained lawfully and to protect the wild populations in Indiana from becoming endangered again, which would prohibit their possession and sale. A licensed taxidermist can make additional revenue by being able to sell the mounted specimens or parts of these three species of animals once they are no longer endangered. The DNR would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all license holders.

In 312 IAC 9-10-12, the requirement for licensed fur buyers could be reduced with one of the following options:

- (1) not require the paperwork to possess a bobcat, badger, or river otter;
- (2) not allow them to possess or sell these carcasses or untanned hides;
- (3) not require a receipt to sell a bobcat, badger, or river otter; or
- (4) not propose this rule change, which would not allow a business who operates as a licensed fur buyer to possess or sell a carcass or untanned hide of one of these three species of animals.

This paperwork is necessary to ensure that the animals were obtained lawfully and to protect the wild populations in Indiana from becoming endangered again, which would prohibit their possession and sale. The current law only allows the possession of furbearing mammals that are lawfully taken in season; these three species of animals cannot be lawfully taken in Indiana and are not defined as furbearing mammals in IC 14-8-2-108.

Therefore, a rule change is required to allow the possession or sale, or both, of a carcass or untanned hide of one of these three species of animals. A licensed fur buyer can make additional revenue by being able to sell the carcasses or untanned hides or parts of these three species of animals. The DNR would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all license holders.

• Supporting Data, Studies, or Analyses: The DNR did not rely on any studies in its decision not to employ alternatives to these proposed rules.

312 IAC 9-2-1	312 IAC 9-3-19
312 IAC 9-2-14	312 IAC 9-4-2
312 IAC 9-3-2	312 IAC 9-4-5.5
312 IAC 9-3-3	312 IAC 9-4-11
312 IAC 9-3-12	312 IAC 9-5-11
312 IAC 9-3-18.1	312 IAC 9-10-5
312 IAC 9-3-18.2	312 IAC 9-10-11
312 IAC 9-3-18.3	312 IAC 9-10-12
312 IAC 9-3-18.4	312 IAC 9-11-13

SECTION 1. 312 IAC 9-2-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-2-1 Taking, chasing, and possessing wild animals

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 1. (a) ~~It is unlawful to~~ **A person must not:**

- (1) take;
- (2) chase; or
- (3) possess;

a wild animal except as provided by statute or by this article.

(b) ~~Notwithstanding subsection (a), this article does not apply to groundhogs.~~ *(Natural Resources Commission; 312 IAC 9-2-1; filed May 12, 1997, 10:00 a.m.: 20 IR 2700; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)*

SECTION 2. 312 IAC 9-2-14 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-2-14 Fishing, hunting, and trapping without a license by owners and lessees of farmland

Authority: IC 14-22-6-1; IC 14-22-11-1

Affected: IC 14-22

Sec. 1. (a) **An owner or a lessee of farmland and a family member of the owner or lessee, if exempted under IC 14-22-11-1, may:**

- (1) fish;
- (2) hunt; or
- (3) trap;

on the farmland without obtaining a license under this article.

(b) **For farmland owned or leased by:**

- (1) a corporation;
- (2) a limited liability company;
- (3) a partnership; or
- (4) another person other than an individual or individuals; the license exemption applies only to an individual who resides on the farmland. (*Natural Resources Commission; 312 IAC 9-2-14*)

SECTION 3. 312 IAC 9-3-2, AS AMENDED AT 28 IR 536, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-2 General requirements for deer; exemptions; tagging; tree blinds; maximum taking of antlered deer in a calendar year

Authority: IC 14-22-2-6
 Affected: IC 14-22-11-1; IC 14-22-11-11

Sec. 2. (a) This section and sections 3 through 10 of this rule govern the hunting, transportation, and disposal of deer.

(b) Species of deer other than white-tailed deer (*Odocoileus virginianus*) are exempted from **the following**:

- (1) This section. ~~and~~
- (2) Sections 3 through 9 of this rule.

A person who claims the exemption provided under this subsection must prove the deer is other than a white-tailed deer.

(c) The licenses identified by sections 3 through 8 of this rule are nonexclusive. An individual may apply for one (1) or more of these licenses.

(d) Before September 1, 2007, a person must not take more than one (1) antlered deer during the seasons for an annual deer license.

(e) The use or aid of:

- (1) a food product that is transported and placed for consumption;
- (2) salt;
- (3) mineral blocks;
- (4) prepared solid or liquid intended for ingestion (herein called bait);
- (5) snares;
- (6) dogs; or
- (7) other domesticated animals;

to take deer is prohibited. A person must not hunt by the aid of bait or on or over a baited area. An area is considered baited for ten (10) days after the removal of the bait or the baited soil. Hunting an orchard or another area, which may be attractive to deer as the result of normal agricultural activity, is not prohibited. The use of manufactured scents and lures or similar chemical or natural attractants is not prohibited.

(f) Except as provided under IC 14-22-11-1 and IC 14-22-11-11, a person must not hunt:

- (1) deer unless the person possesses a completed and signed license bearing the person's name; ~~The license must be accompanied by a temporary transportation tag bearing the license number and the year of issuance. A person must not hunt or~~
- (2) with a deer license ~~or tag~~ issued to another person.

(g) ~~The temporary transportation tag described in subsection (f)~~ **A piece of paper** must, immediately upon taking a deer, be notched as attached to a leg of the deer and state the following:

- (1) **The name and address of the person.**
- (2) **The license number (if applicable).**
- (3) The sex of the deer. ~~and~~
- (4) The month and day of the kill. ~~A tag that is notched other than three (3) times is void. A person must not tag a deer other than with a tag issued to the person who took the deer was taken.~~

A deer leg must be tagged **with the piece of paper** before leaving the field. A deer that is in the field is not required to be tagged if the person who ~~kills~~ **takes** the deer maintains immediate custody of, and constant visual contact with, the deer carcass.

(h) A person who takes a deer must cause delivery of the deer carcass to an official checking station for registration on the occurrence of the earlier of ~~one (1)~~ **(+)** of the following:

- (1) Within forty-eight (48) hours of **the** taking of the deer.
- (2) Before the deer is removed from this state.

The person who delivers the deer carcass to an official checking station for registration must provide accurate information for the check station logs.

(i) After the checking station operator records the permanent seal number on the log and collects the ~~upper portion of the license, where applicable, along with the temporary transportation tag, the hunter is provided with that seal. The seal must be affixed by the hunter and sealed to prevent its removal (without cutting piece of paper described in subsection (g), the operator shall give the seal or the body part to which it is affixed); before processing of the deer begins, by affixing person. The person must immediately affix the seal:~~

- (1) between a tendon and bone;
- (2) through a section of skin or flesh; or
- (3) around a branched antler;

to prevent its removal (without cutting the seal or the body part to which it is affixed). The seal must be maintained until processing of the deer begins.

- (j) The checking station operator must **do the following**:
 - (1) Accurately and legibly complete all forms provided by the department. ~~and must~~
 - (2) Make those forms available to department personnel upon request.

(k) ~~An individual authorized to act under this subsection must~~

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attach to a deer carcass a paper that states the name and address of the individual and the date and sex of the deer taken. The requirements of subsections (f) through (g) also apply except to the extent those subsections identify the physical characteristics of a tag. The individuals authorized to act under this subsection are as follows:

- (1) A lifetime license holder;
- (2) A youth license holder;
- (3) For a deer taken on a landowner's land, each of the following:
 - (A) The resident landowner;
 - (B) The spouse of the resident landowner;
 - (C) A child of the resident landowner who is living with the landowner;
- (4) For a deer taken on farmland leased from another person, each of the following:
 - (A) The resident lessee who farms the land;
 - (B) The spouse of the resident lessee;
 - (C) A child of the resident lessee who is living with the lessee;
- (5) An Indiana serviceman or servicewoman who is hunting under IC 14-22-11-11.

(k) A person must not erect, place, or hunt from a permanent tree blind on state-owned lands. A tree blind placed on:

- (1) state-owned or state-leased lands;
- (2) U.S. Forest Service lands;
- (3) the Muscatatuck National Wildlife Refuge; or
- (4) the Big Oaks National Wildlife Refuge;

must be portable and may be left overnight only between September 1 and January 10. A fastener used in conjunction with a tree blind and a tree or pole climber that penetrates a tree more than one-half (1/2) inch is prohibited. Each portable tree blind must be legibly marked with the name, address, and telephone number of the owner of the tree blind.

(l) The head of a deer must remain attached to the carcass until the tag is attached and locked at the deer checking station.

(m) The use of infrared sensors to locate or take deer is prohibited. It is unlawful to hunt or to retrieve deer with the aid of an infrared detector.

(n) Notwithstanding subsection (e), dogs may be used only while on a leash to track or trail wounded deer.

(o) Notwithstanding subsection (e):

- (1) donkeys;
- (2) mules; and
- (3) horses;

may be used for transportation to and from a hunt but may not be used while hunting.

(p) The possession of an electronic deer call is prohibited. A person must not hunt deer with the aid of an electronic deer

call. (*Natural Resources Commission; 312 IAC 9-3-2; filed May 12, 1997, 10:00 a.m.: 20 IR 2702; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1528; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 536*)

SECTION 4. 312 IAC 9-3-3, AS AMENDED AT 28 IR 538, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-3 Hunting deer by firearms

Authority: IC 14-22-2-6

Affected: IC 14-22-11-1; IC 14-22-12-1; IC 35-47-2

Sec. 3. (a) This section is supplemental to section 2 of this rule and governs the activities of an individual who is either:

- (1) issued a license to hunt deer by firearms under IC 14-22-12-1(12), IC 14-22-12-1(13), IC 14-22-12-1(15), or IC 14-22-12-1(16); or
- (2) hunting by the use of firearms under IC 14-22-11-1.

(b) The season for hunting deer with firearms is as follows:

(1) The firearms season using:

- (A) shotgun;
- (B) shotgun with rifled barrel;
- (C) handgun;
- (D) muzzle loading gun; or
- (E) muzzle loading handgun;

is from the first Saturday after November 11 and ~~continuing~~ **continues** for an additional fifteen (15) days.

(2) The seasonal limit for hunting deer under this subsection is one (1) antlered deer.

(c) In addition to the season established under subsection (b), the season for using a muzzle loading gun or muzzle loading handgun only:

- (1) extends from the first Saturday after the firearms season established under subsection (b); and
- (2) continues for fifteen (15) additional days.

The seasonal limit for hunting deer under this extended season is one (1) deer of either sex.

(d) A person must not hunt deer except from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(e) A person must not **do the following**:

(1) Hunt deer unless that person wears hunter orange.

(f) ~~A person must not~~ (2) Possess bow and arrows while hunting under this section.

(g) (f) The following requirements apply to the use of firearms under this section:

(1) A shotgun:

(A) must have a gauge 10, 12, 16, 20, or .410 bore loaded with a single projectile; ~~A shotgun and~~

(B) may be possessed in the field outside lawful shooting hours only if there are no shells in the chamber or magazine.

(2) A handgun must:

- (A) conform to the requirements of IC 35-47-2;
- (B) have a barrel at least four (4) inches long; and
- (C) fire a bullet of **two hundred forty-three thousandths** (.243) inch diameter or larger.

All 38 special ammunition is prohibited. The handgun cartridge case, without bullet, must be at least one and sixteen-hundredths (1.16) inches long. A handgun must not be concealed. Full metal jacketed bullets are unlawful. A handgun may be possessed in the field outside lawful shooting hours only if there are no shells in the chamber or magazine. All 25/20, 32/20, 30 carbine, and 38 special ammunition is prohibited.

(3) A muzzle loading gun must be .44 caliber or larger, loaded with a bullet at least **three hundred fifty-seven thousandths** (.357) inch or larger. A muzzle loading handgun must be single shot, .50 caliber or larger, loaded with bullets at least .44 caliber and have a barrel at least twelve (12) inches long. The length of a muzzle loading handgun barrel is determined by measuring from the base of the breech plug, excluding tangs and other projections, to the end of the barrel, including the muzzle crown. A muzzle loading **firearm gun** must be **capable of being** loaded **only** from the muzzle, **including both powder and bullet**. A muzzle loading **firearm gun** may be possessed in the field outside lawful shooting hours only if:

- (A) for percussion firearms, the cap or primer is removed from the nipple or primer adapter; or
- (B) for flintlock firearms, the pan is not primed.

(4) Over-and-under combination rifle-shotguns are prohibited. *(Natural Resources Commission; 312 IAC 9-3-3; filed May 12, 1997, 10:00 a.m.: 20 IR 2703; filed Nov 13, 1997, 12:09 p.m.: 21 IR 1272; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1530; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 538)*

SECTION 5. 312 IAC 9-3-12, AS AMENDED AT 28 IR 539, SECTION 8, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-12 Foxes, coyotes, and skunks

Authority: IC 14-22-2-6
Affected: IC 14-22

Sec. 12. (a) The season for hunting:

- (1) red foxes; and
- (2) gray foxes;

is from noon on October 15 until noon on February 28 of the following year.

(b) The season for trapping:

- (1) red foxes;
- (2) gray foxes; and
- (3) skunks;

is from 8 a.m. on October 15 until noon on January 31 of the following year.

(c) Except as provided in subsection (d), the season for:

- (1) hunting ~~and trapping~~ coyotes is from noon on October 15 until noon on March 15 of the following year; **and**
- (2) **trapping coyotes is from 8 a.m. on October 15 until noon on March 15 of the following year.**

A coyote must not be possessed from April 5 through October 14 except to provide for its prompt disposal.

(d) A person who possesses land, or another person designated in writing by that person, may take coyotes on that land at any time.

(e) A person must not possess **the following**:

(1) A red fox or gray fox except from October 15 until March 20 of the following year.

~~(f) A person must not possess~~ (2) A skunk except from October 15 until February 20 of the following year.

(Natural Resources Commission; 312 IAC 9-3-12; filed May 12, 1997, 10:00 a.m.: 20 IR 2706; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 539)

SECTION 6. 312 IAC 9-3-18.1 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-3-18.1 Bobcats

Authority: IC 14-22-2-6
Affected: IC 14-22

Sec. 18.1. A person must not take or possess a bobcat (*Felis rufus*) except as otherwise provided by this article. *(Natural Resources Commission; 312 IAC 9-3-18.1)*

SECTION 7. 312 IAC 9-3-18.2 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-3-18.2 River otters

Authority: IC 14-22-2-6
Affected: IC 14-22

Sec. 18.2. A person must not take or possess a river otter (*Lutra canadensis*) except as otherwise provided by this article. *(Natural Resources Commission; 312 IAC 9-3-18.2)*

SECTION 8. 312 IAC 9-3-18.3 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-3-18.3 Badgers

Authority: IC 14-22-2-6
Affected: IC 14-22

Sec. 18.3. A person must not take or possess a badger (*Taxidea taxus*) except as otherwise provided by this article. *(Natural Resources Commission; 312 IAC 9-3-18.3)*

SECTION 9. 312 IAC 9-3-18.4 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-3-18.4 Possession and sale of bobcats, river otters, and badgers

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Authority: IC 14-22-2-6
Affected: IC 14-22

Sec. 18.4. (a) A person must not possess or sell a carcass, hide, or any part of a bobcat, river otter, or badger unless the person meets one (1) of the following requirements:

(1) The person possesses satisfactory documentation that the carcass, hide, or part was lawfully acquired. Satisfactory documentation must include one (1) or more of the following:

(A) A legible copy of any of the following:

- (i) A tag.
- (ii) A receipt.
- (iii) A hunting license.
- (iv) A trapping license.
- (v) A permit.
- (vi) Other appropriate record from the state or country where the animal, including any part or portion of the animal, was acquired.

(B) A receipt from either of the following:

- (i) A fur buyer licensed under 312 IAC 9-10-12.
- (ii) A taxidermist licensed under 312 IAC 9-10-5.

(2) The person obtains the:

- (A) carcass;
- (B) hide; or
- (C) part;

from a department employee with written permission.

(b) In addition to subsection (a), a person must not possess a carcass or untanned hide of a:

- (1) bobcat;
- (2) river otter; or
- (3) badger;

for more than fourteen (14) days unless the person is a fur buyer licensed under 312 IAC 9-10-12.

(c) A fur buyer licensed under 312 IAC 9-10-12, or a taxidermist licensed under 312 IAC 9-10-5, who sells:

- (1) a carcass;
- (2) a hide; or
- (3) any part;

of a bobcat, river otter, or badger must provide the purchaser with the documentation described in subsection (a). A purchaser who relies in good faith upon the documentation may offer it as an affirmative defense to an infraction or civil penalty alleging a violation of subsection (a). *(Natural Resources Commission; 312 IAC 9-3-18.4)*

SECTION 10. 312 IAC 9-3-19 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-19 Endangered and threatened species of mammals

Authority: IC 14-22-2-6; IC 14-22-34-17
Affected: IC 14-22-34-2; IC 14-22-34-12

Sec. 19. The following species of mammals are ~~threatened or~~

endangered and are subject to the protections provided under IC 14-22-34-12:

- ~~(1) Bobcat (Felis rufus).~~
- ~~(2) (1) Indiana bat (Myotis sodalis).~~
- ~~(3) (2) Gray bat (Myotis grisescens).~~
- ~~(4) (3) Southeastern bat (Myotis austroriparius).~~
- ~~(5) (4) Evening bat (Nycticeius humeralis).~~
- ~~(6) Badger (Taxidea taxus).~~
- ~~(7) (5) Eastern wood rat (Neotoma floridana).~~
- ~~(8) (6) Swamp rabbit (Sylvilagus aquaticus).~~
- ~~(9) (7) Franklin's ground squirrel (Spermophilus franklinii).~~
- ~~(10) River otter (Lutra canadensis).~~

(Natural Resources Commission; 312 IAC 9-3-19; filed May 12, 1997, 10:00 a.m.: 20 IR 2708; filed May 16, 2002, 12:25 p.m.: 25 IR 3046; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 11. 312 IAC 9-4-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-4-2 Migratory birds and waterfowl

Authority: IC 14-22-2-6
Affected: IC 14-22

Sec. 2. (a) The restrictions in this section supplement state statutes and federal laws ~~which that~~ protect migratory birds and waterfowl.

(b) A person must not hunt migratory birds and waterfowl, **except for mute swans (Cygnus olor)**, unless the person:

(1) is registered with; ~~the Harvest Information Program and~~
(2) possesses an identification number issued through; the Harvest Information Program. ~~Exempted from this subsection is a person who is hunting on property where the person is either of the following:~~

- ~~(1) A landowner.~~
- ~~(2) A lessee.~~
- ~~(3) A resident of Indiana on leave from one of the armed services of the United States.~~

(c) A person must not take or possess a Virginia rail. *(Natural Resources Commission; 312 IAC 9-4-2; filed May 12, 1997, 10:00 a.m.: 20 IR 2708; filed May 28, 1998, 5:14 p.m.: 21 IR 3714; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)*

SECTION 12. 312 IAC 9-4-5.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-4-5.5 Mute swans

Authority: IC 14-22-2-6
Affected: IC 14-22

Sec. 5.5. (a) A person who possesses land, or another person designated in writing by that person, may take a mute swan (Cygnus olor) on the land at any time. There is no limit to the number of mute swans that may be taken under this section.

(b) A person may possess a mute swan only if each of the following is satisfied:

- (1) The swan is pinioned.**
- (2) The swan is in an enclosure that prevents its escape into the wild.**
- (3) The swan was lawfully acquired and possessed by the person before June 1, 2006.**
- (4) The person describes any mute swan, including the:**
 - (A) method of acquisition; and**
 - (B) number possessed;****on a department form by October 1, 2006.**

(c) A wing of each swan must be pinioned so the:

- (1) metacarpal bones of one (1) wing or a portion of the metacarpal bones are removed; and**
- (2) swan is permanently incapable of flight.**

(d) A person who lawfully possesses a mute swan as described in subsection (b) must not sell a mute swan.
(Natural Resources Commission; 312 IAC 9-4-5.5)

SECTION 13. 312 IAC 9-4-11, AS AMENDED AT 28 IR 2946, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-4-11 Wild turkeys

Authority: IC 14-22-2-6

Affected: IC 14-22-11-1; IC 14-22-11-11

Sec. 11. (a) Except as provided in subsection (c), the spring season for hunting and possessing wild turkeys:

- (1) is from the first Wednesday after April 20; and ~~continuing~~**
- (2) ~~continues~~ continues** for an additional eighteen (18) consecutive days.

(b) The fall season for hunting and possessing wild turkeys with a bow and arrows:

- (1) is from October 1 to the end of the fall turkey season with firearms, which begins on the first Wednesday after October 14; and**
- (2) continues for an additional four (4) consecutive days; except as provided in subsection (c).**

(c) The spring and fall seasons for hunting and possessing wild turkeys on:

- (1) Camp Atterbury; and**
 - (2) the Big Oaks National Wildlife Refuge;**
- shall be determined by the director on an annual basis.

(d) The limit for taking and possessing is one (1):

- (1) bearded or male wild turkey during the spring season; and**
- (2) wild turkey of either sex during the fall season.**

(e) A person must not hunt wild turkeys except between one-half (½) hour before sunrise and sunset.

(f) A person must not take a wild turkey except with the use of one (1) of the following:

- (1) A shotgun ~~not smaller than 20 gauge and not larger than~~**

~~10 gauge loaded only with shot of size 4, 5, 6, 7, or 7½.~~
~~(2) A or muzzle loading shotgun:~~

- ~~(A) not smaller than 20 gauge; and~~
- ~~(B) not larger than 10 gauge;~~

~~loaded only with shot of size 4, 5, 6, 7, or 7½.~~

~~(2) A bow and arrows, including crossbows as defined in 312 IAC 9-3-4(j), with the following restrictions:~~

~~(A) A person must not use a:~~

- ~~(i) long bow; or~~
- ~~(ii) compound bow;~~

~~of less than thirty-five (35) pounds pull.~~

~~(B) Arrows must be equipped with metal or metal-edged (or flint, chert, or obsidian napped) broadheads.~~

~~(C) A person must not use a:~~

- ~~(i) crossbow of less than one hundred twenty-five (125) pounds pull;~~
- ~~(ii) crossbow unless it has a mechanical safety; or~~
- ~~(iii) poisoned or explosive arrow.~~

~~(D) No portion of a bow's riser (handle) or:~~

- ~~(i) track;~~
- ~~(ii) trough;~~
- ~~(iii) channel;~~
- ~~(iv) arrow rest; or~~
- ~~(v) other device;~~

~~that attaches to the bow's riser shall contact, support, or guide the arrow from a point rearward of the bow's brace height.~~

~~(E) Before or after lawful shooting hours, a person must not possess a:~~

- ~~(i) long bow;~~
- ~~(ii) compound bow; or~~
- ~~(iii) crossbow;~~

~~in the field if the nock of the arrow is placed on the bow string.~~

~~(g) A person must not hunt wild turkeys in the fall season except in a county the director designates on an annual basis by emergency rule or in the spring season in the following counties:~~

- ~~(1) Adams, south of State Road 124.~~
- ~~(2) Blackford.~~
- ~~(3) Delaware.~~
- ~~(4) Grant, east of Interstate 69.~~
- ~~(5) Hancock, east of State Road 9.~~
- ~~(6) Henry.~~
- ~~(7) Huntington:~~
 - ~~(A) south of State Road 124; and~~
 - ~~(B) east of Interstate 69.~~
- ~~(8) Jasper:~~
 - ~~(A) south of State Highway 114; and~~
 - ~~(B) west of Interstate 65.~~
- ~~(9) Jay.~~
- ~~(10) Newton, south of State Highway 114.~~
- ~~(11) Randolph, north of State Road 32.~~
- ~~(12) Rush, north of State Road 44.~~

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(13) Shelby:

- (A) east of State Road 9; and
- (B) north of State Road 44.

(14) Wells, south of State Road 124.

(15) Whitley, south of U.S. 30.

(h) The use of:

- (1) a dog;
- (2) another domesticated animal;
- (3) a live decoy;
- (4) a recorded call;
- (5) an electronically powered or controlled decoy; or
- (6) bait;

to take a wild turkey is prohibited. An area is considered baited for ten (10) days after the removal of the bait, but an area is not considered to be baited that is attractive to wild turkeys resulting from either of the following:

(1) normal agricultural practices.

(2) The use of a:

- (A) manufactured scent;
- (B) lure; or
- (C) chemical attractant.

(i) A person must not possess a handgun while hunting wild turkeys.

(j) Except as provided under IC 14-22-11-1 and IC 14-22-11-11, a person must not hunt:

(1) wild turkeys unless possessing a completed and signed license bearing the person's name; ~~The license must be accompanied by a temporary transportation tag bearing the license number and the year of issuance. A person must not hunt or~~

(2) with a wild turkey license ~~or tag~~ issued to another person.

(k) ~~The temporary transportation tag described in subsection (j)~~ **A piece of paper** must, immediately after taking a wild turkey:

(1) be notched as to the month and day of the taking and attached to a leg of the turkey directly above the spur; ~~A tag is void if notched more than twice. and~~

(2) state the: temporary transportation tag must be attached to a leg

- (A) name and address of the person;
- (B) license number (if applicable);
- (C) date; and
- (D) sex;

of the wild turkey directly above the spur: taken.

(l) A person who takes a turkey must **do the following:**

(1) Cause delivery of the turkey to an official turkey checking station within forty-eight (48) hours of taking for registration. After the checking station operator:

- (A) records the permanent seal number on the log; and
- (B) collects the piece of paper described in subsection (k);

the person is provided with that seal. ~~The person must~~

(2) Immediately and firmly affix the seal to the leg of the turkey **as follows:**

(A) Directly above the temporary transportation tag: **piece of paper described in subsection (k) for a turkey taken during the spring season.**

(B) **Through a section of skin or flesh to prevent its removal (without cutting the seal or the body part to which it is affixed) for a turkey taken in the fall season.**

The permanent seal must remain affixed until processing of the turkey begins. The official turkey checking station operator shall accurately and legibly complete all forms provided by the department and make those forms available to department personnel on request.

(1) Each of the following individuals must tag a turkey carcass immediately after taking with a paper that states the name and address of the individual and the date the turkey was taken:

(1) A lifetime license holder.

(2) A youth license holder.

(3) For a wild turkey taken on a landowner's land; each of the following:

(A) The resident landowner.

(B) The spouse of the resident landowner.

(C) A child of the resident landowner who is living with the landowner.

(4) For a wild turkey taken on land leased from another person; each of the following:

(A) The resident lessee who farms the land.

(B) The spouse of the resident lessee.

(C) A child of the resident lessee who is living with the lessee.

(5) An Indiana serviceman or servicewoman hunting under IC 14-22-11-11.

(m) The feathers and beard of a wild turkey must remain attached while the wild turkey is in transit from the site where taken. (*Natural Resources Commission; 312 IAC 9-4-11; filed May 12, 1997, 10:00 a.m.: 20 IR 2710; filed May 28, 1998, 5:14 p.m.: 21 IR 3715; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1533; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 541; filed May 25, 2005, 10:15 a.m.: 28 IR 2946*)

SECTION 14. 312 IAC 9-5-11, AS ADDED AT 28 IR 546, SECTION 19, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-5-11 Turtle possession permit

Authority: IC 14-22-2-6; IC 14-22-26-3; IC 14-22-34-17

Affected: IC 4-21.5; IC 14-22

Sec. 11. (a) **Except as provided in subsection (b), this section establishes the requirements for a special purpose that a person must satisfy to possess a turtle possession permit that is listed in section 7(c) of this rule.**

(b) **Only an Indiana resident can qualify for a permit under**

this section. ~~An application must be made on a departmental form.~~ Exempted from this section is any:

- (1) species of turtle that is possessed lawfully under section 2, 3, or 6 of this rule; and ~~any~~
- (2) endangered species of native turtle that is possessed lawfully under 312 IAC 9-11.

(c) The department shall not issue a permit under this section to possess a turtle that is listed as endangered under section 4 of this rule.

(d) A person must be an Indiana resident to receive a permit under this section.

~~(e) (e) A person must submit, on a departmental form, an application must be made for a permit under this section within ten (10) days after taking possession of a native turtle. that was not taken from the wild or for The possession of an eastern box turtle that was application must show the person lawfully acquired by obtained the person before January 1, 2005. A person does not violate section 6 of this rule if the person obtains a permit under this section for an eastern box turtle. An application must show the For a turtle that was lawfully acquired: obtained:~~

- (1) a receipted invoice;
- (2) a bill of lading; or
- (3) other evidence approved by the director;

~~must accompany the application. To permit a turtle from outside Indiana, the turtle must have been taken lawfully and must be accompanied by~~ A certificate of veterinary inspection from the state of origin **must accompany an application for a turtle obtained outside Indiana.**

~~(f) (f) If supported by appropriate documentation, an unlimited number of native turtles that were legally obtained but not taken from the wild may be possessed under this permit.~~

~~(g) (g) A conservation officer shall inspect each cage or enclosure before a permit can be issued. A turtle must be:~~

- (1) quarantined for at least thirty (30) days and display no signs of illness before being placed with other turtles; ~~A turtle must be and~~
- (2) confined in a cage or other enclosure that:
 - (A) makes escape of the animal unlikely; and
 - (B) prevents the entrance of free-roaming turtles.

The cage or enclosure must provide the turtle with ample space for exercise and to avoid overcrowding. Each turtle shall be handled, housed, and transported in a sanitary and humane manner. Mature male and female turtles of the same species must be caged separately. Upon request by a conservation officer, an applicant must make any cage or enclosure available for inspection.

~~(h) (h) A turtle possessed under this section:~~

- (1) must not be:

- (A) bred;
- (B) sold;
- (C) traded;
- (D) bartered; or
- (E) released into the wild; ~~A turtle possessed under this section and~~

(2) may be given only to an individual who possesses a permit under this section.

~~(g) (i) A native turtle with a straight-line carapace length of four (4) inches or greater held under this permit must be permanently marked with a unique passive integrated transponder (pit tag) implanted under the skin. Only pit tags that can be read by an AVID Reader may be implanted. The director may, however, approve a temporary identification method for use on a sick or injured turtle.~~

~~(h) (j) A permit holder must not commercially advertise adoption services.~~

~~(k) A turtle possessed under this section permit holder must not be publicly displayed except under an place a turtle on public display unless the person also possesses an educational permit issued under 312 IAC 9-10-9.5.~~

~~(l) (l) A copy of the records must be kept on the premises of the permit holder for at least two (2) years after the turtle was obtained, and a copy must be provided to a conservation officer upon request. The records shall include the following:~~

- (1) The:
 - (A) taxa;
 - (B) number;
 - (C) carapace length; and
 - (D) weight;
 of each turtle obtained.
- (2) The:
 - (A) complete name;
 - (B) address; and
 - (C) telephone number;
 of the person from whom a turtle was obtained.
- (3) The date obtained.
- (4) The unique passive integrated transponder code of each implanted turtle.

~~(m) (m) A conservation officer:~~

- (1) may enter the premises of the permit holder at all reasonable hours to inspect:

- (A) those premises; and
- (B) any records relative to the permit; ~~The conservation officer~~

(2) shall immediately notify the permit holder if the inspection reveals a turtle is being kept under unsanitary or inhumane conditions; ~~A conservation officer and~~

(3) may make a second inspection after ten (10) days ~~and the to determine if any permit may be suspended or revoked~~

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~~under IC 4-21.5, and the turtles may be confiscated, if deficiency has been corrected that was reported to the permit holder. fails to comply with the permit:~~

~~(*) (n)~~ A permit expires on ~~December 31~~ **June 30** of the year the permit was issued.

(o) The permit holder must provide an annual report to the division by ~~February~~ **July 15** of each year with the following information: ~~for each turtle possessed under this permit:~~

- (1) The taxa and number of each native turtle. ~~obtained.~~
- (2) The:
 - (A) complete name;
 - (B) address; and
 - (C) telephone number;of the person from whom a turtle was obtained.
- (3) The date **the turtle was** obtained.
- (4) The unique passive integrated transponder code of each implanted turtle **or another type of unique identification.**

~~(*)~~ (p) A permit may be suspended, denied, or revoked **and any turtle confiscated**, under IC 4-21.5, if the permit holder fails to comply with any of the following:

- (1) A permit issued under this section.
- (2) This article.
- (3) Another applicable state, local, or federal law.

(Natural Resources Commission; 312 IAC 9-5-11; filed Sep 23, 2004, 3:00 p.m.: 28 IR 546)

SECTION 15. 312 IAC 9-10-5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-5 Taxidermist licenses

Authority: IC 14-22-2-6; IC 14-22-21
Affected: IC 4-21.5; IC 14-22

Sec. 5. (a) A license is required under this section for an individual who performs taxidermy services on a wild animal for another person.

(b) An application for a taxidermist license shall be completed on a departmental form.

(c) A license holder must maintain accurate records, on a calendar year basis, showing the names and addresses of persons from or to whom wild animals were received or delivered. The records shall:

- (1) include the:
 - (A) species and numbers of wild animals; and ~~the~~
 - (B) dates of receipt and delivery; ~~The records shall and~~
- (2) be retained at the premises of the license holder for at least two (2) years after the end of the license year.

A copy of the records must be provided to a conservation officer upon request.

~~(d) A person who delivers~~ **The carcass or any part or**

portion of a wild animal that is delivered to a taxidermist must ~~tag the carcass be tagged~~ with the following information:

- (1) The name and address of the person making delivery to the taxidermist.
- (2) The species of animal.
- (3) The:
 - (A) date and manner; ~~the animal was obtained; and~~
 - (B) **location, including the county and state, where; the animal was obtained.**

(e) A taxidermist shall not remove from the carcass, except during active taxidermy operations, the tag described in subsection (d).

(f) A taxidermist may sell a lawfully acquired and mounted specimen of wild animal, where **the:**

- (1) ~~the~~ tag is affixed; and
- (2) ~~the~~ sale is immediately recorded in a log book.

(g) A taxidermist shall not possess a wild animal taken outside the season except under a permit obtained from the department under this subsection. A permit for a special taxidermy mount of a protected species may be granted under this subsection only to an agency or institution ~~which that~~ engages in wildlife education or research as a primary function.

(h) Any:

- (1) record, tag, log book, or other documentation required under this section; and ~~any~~
 - (2) storage or work area;
- of a taxidermist shall be made available upon request for inspection by a conservation officer.

(i) A federal taxidermy permit is required to perform taxidermy work on ~~any migratory birds: bird except a mute swan.~~

(j) A license may be suspended, denied, or revoked under IC 4-21.5 if the license holder fails to comply with any of the following:

- (1) **A provision of a license issued under this section.**
- (2) **IC 14-22-21.**

(Natural Resources Commission; 312 IAC 9-10-5; filed May 12, 1997, 10:00 a.m.: 20 IR 2729; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 16. 312 IAC 9-10-11 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-11 Nuisance wild animal control permit

Authority: IC 14-22-2-6; IC 14-22-28
Affected: IC 14-22; IC 35-46-3-12

Sec. 11. (a) The director may without fee issue a temporary permit to control a nuisance wild animal that is:

- (1) causing damage or threatening to cause damage to property; or

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(2) posing a health or safety threat to persons or domestic animals.

The method of control and disposition of the animal shall be set forth in the permit.

(b) A wild animal taken under this section shall not be:

- (1) possessed for more than forty-eight (48) hours; and ~~staff not be~~
- (2) sold;
- (3) traded;
- (4) bartered; or
- (5) gifted.

(c) A property owner or lessee may obtain a permit under this section for the control of a nuisance wild animal.

(d) A person who charges a fee or provides a service to the public for nuisance wild animal control services must obtain a permit under this subsection to assist a property owner or lessee with the control of a nuisance wild animal. The following testing requirements apply:

- (1) A permit applicant must correctly answer at least eighty percent (80%) of the questions on a written examination of basic knowledge supervised and administered by the division of fish and wildlife.
- (2) A permittee who has satisfied subdivision (1) must, within four (4) years of being issued the permit, either:
 - (A) satisfy the same requirements as are set forth in subdivision (1) on another examination; or
 - (B) complete thirty-two (32) hours of continuing education as approved by the division.
- (3) A person who fails an examination under this section may retake the examination one (1) additional time within forty-five (45) days, but not again within one hundred eighty (180) days after a second failure.

(e) A person who does not hold a permit under subsection (d) may assist a permittee, but only if the permittee directly supervises the unpermitted person. A copy of the permit must be on the person when conducting any authorized activities.

(f) A captive animal must be handled in an expeditious and humane manner in compliance with IC 35-46-3-12.

(g) Permittees may use the following:

- (1) Firearms if possessed and used in compliance with all applicable state, local, and federal firearm laws.
- (2) Steel and live traps, except for the following:
 - (A) A foothold trap:
 - (i) possessing saw-toothed or spiked jaws; **or**
 - ~~(B) A foothold trap~~ (ii) sized #3 or larger without offset jaws unless the trap is completely covered with water.
 - ~~(B)~~ (B) A Conibear, Dahlgren, Bigelow, or other killer trap that is:
 - (i) eight (8) inches or larger in diameter; **or is**
 - (ii) larger than eight (8) inches by eight (8) inches unless

the trap is completely covered by water.

(3) Snares with a circumference no greater than fifteen (15) inches unless:

- (A) at least fifty percent (50%) of the loop of the snare is covered by water; or
- (B) the snare employs a relaxing snare lock (a lock that will allow the snare's loop size to increase once pulling tension is no longer exerted along the snare from its anchored end).

(h) All traps must be checked at least once every twenty-four (24) hours.

(i) The following restrictions apply to the treatment of an animal captured live under this permit:

(1) When on-site release is not the best viable option, the animal must be:

- (A) released in the county of capture;
- (B) euthanized; or
- (C) treated as otherwise authorized in the permit.

(2) An animal must be euthanized with the:

- (A) safest;
- (B) quickest; and
- (C) most painless;

available method as recommended and approved by the division of fish and wildlife.

(3) Prior consent is required from the:

- (A) landowner; **or the**
- (B) landowner's agent;

before an animal is released on any property.

(j) A permit expires on December 31 of the year the permit is issued. The permittee must maintain a current record to include the following:

- (1) The name and address of the landowner assisted.
- (2) The date assistance was provided.
- (3) The number and species of animals affected.
- (4) The method of disposition.

A copy of the records shall be kept on the premises of the permittee for at least two (2) years after the transaction and must be presented to a conservation officer upon request.

(k) A permittee must file an application by January 15 of each year in order to renew a permit. The annual report required under subsection (l) must accompany the renewal application.

(l) The permit holder shall provide an annual report to the division by January 15 of each year. The report shall list the following:

- (1) The:
 - (A) number; ~~of animals taken; and~~
 - ~~(2) The~~ (B) species; of animals taken.
- ~~(2)~~ (2) The county where the animal was captured.
- ~~(3)~~ (3) The method of disposition.
- ~~(4)~~ (4) The county where released (if applicable).

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(m) A permit issued under this section may be suspended or revoked if the permittee **does the following:**

(1) Fails to comply with **any of the following:**

(A) IC 14-22. ~~or~~

(B) This article.

~~(2) Fails to comply with~~ (C) A term of the permit.

~~(3)~~ (2) Provides false information to obtain a permit under this section.

~~(4)~~ (3) Uses or employs any:

(A) deception;

(B) false pretense; or

(C) false promise;

to cause a consumer to enter into an agreement for the removal of a nuisance wild animal.

(n) No permit shall be issued under this section:

(1) for the control of a migratory bird **except a mute swan;**

(2) for a wild animal that is identified under this article as:

(A) an endangered; ~~species or~~

(B) a threatened;

species; or

(3) if granting the permit would violate a federal law.

(Natural Resources Commission; 312 IAC 9-10-11; filed May 12, 1997, 10:00 a.m.: 20 IR 2732; filed Oct 28, 2002, 12:03 p.m.: 26 IR 692; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 17. 312 IAC 9-10-12 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-12 Fur buyers' licenses

Authority: IC 14-11-2-1; IC 14-22-2-6; IC 14-22-19

Affected: IC 14-22-19-3

Sec. 12. (a) This section applies to a person who is issued a fur buyer's license under IC 14-22-19-3.

(b) **Except as otherwise provided in this subsection,** a licensed fur buyer may possess the carcasses and untanned hides:

(1) of furbearing mammals ~~which that~~ are lawfully taken in season for not more than sixty (60) days after the last day of that season; **and**

(2) **for bobcats, river otters, and badgers, for not more than sixty (60) days from receipt of the carcass or untanned hide.**

(c) **A licensed fur buyer must do the following:**

(1) **Not possess the carcass or untanned hide or any part of a bobcat, river otter, or badger unless the carcass, untanned hide, or part was lawfully acquired outside Indiana.**

(2) **Document lawful acquisition by providing from the seller a legible copy of any:**

(A) tag;

(B) receipt;

(C) **hunting license;**

(D) **trapping license;**

(E) **permit; or**

(F) **other appropriate record;**

from the state or country where the animal, including any part or portion of the animal, was acquired.

~~(d)~~ (d) Notwithstanding subsection (b), a licensed fur buyer may, as authorized by the division director, possess a carcass or untanned hide in excess of sixty (60) days after the:

(1) close of a season; **or**

(2) **receipt of a carcass or untanned hide of a bobcat, river otter, or badger;**

upon the submission of a report identifying the species, number, and location that furs or carcasses are kept.

(e) A licensed fur buyer must issue a valid, dated receipt for any wild animal that is sold, traded, bartered, or gifted.

The receipt must include the following information:

(1) **The fur buyer's license number.**

(2) **The buyer's and the seller's names and addresses.**

(3) **The:**

(A) **number; and**

(B) **species;**

of animals sold.

(Natural Resources Commission; 312 IAC 9-10-12; filed May 12, 1997, 10:00 a.m.: 20 IR 2732; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 18. 312 IAC 9-11-13 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-11-13 Confining, enclosing, and housing for particular wild animals

Authority: IC 14-22-26

Affected: IC 14-22

Sec. 13. (a) This section sets standards for:

(1) confining;

(2) enclosing; and

(3) housing;

particular kinds of wild animals ~~which that~~ must be satisfied by a person licensed under this rule.

(b) Rabbits must be provided with the following:

(1) Bone, wood, or fibrous food to gnaw.

(2) The:

(A) walls;

(B) roof; and

(C) floor;

of the cage shall be constructed with mesh having openings not more than one and one-half (1½) inches.

(c) Squirrels must be provided with the following:

(1) Climbing perches.

(2) Nest boxes with:

- (A) wood shavings; or
- (B) another approved material.
- (3) ~~For fox squirrels and gray squirrels;~~ The walls, roof, and floor of the cage shall be constructed with mesh having openings not more than **as follows:**
 - (A) ~~For fox squirrels and gray squirrels,~~ one (1) inch.
 - ~~(B) For flying squirrels: the walls, roof, and floor of the cage shall be constructed with mesh having openings not more than~~
 - (i) three-fourths (¾) of an inch; or
 - (ii) one (1) inch by one-half (½) inch; maximum mesh.
- (d) Beavers must be provided with the following:
 - (1) Nest boxes or other sheltered retreats.
 - (2) Gnawing logs.
 - (3) A pool of fresh water with easy access. **Half One-half (½)** of the required floor space shall be a pool of water at least two and one-half (2½) feet deep.
 - (4) The walls, roof, and floor of the cage shall be constructed of at least:
 - (A) eleven and one-half (11½) gauge chain link; or
 - (B) the equivalent.
 A six (6) inch overhang or the equivalent containment may be substituted for a full roof.
- (e) Coyotes must be provided with the following:
 - (1) A sheltered retreat and either:
 - (A) a den; or
 - (B) an elevated wood platform.
 - (2) A cage floor shall have a three (3) foot barrier or apron around the inside of the cage. The barrier shall be constructed of one (1) inch by two (2) inch maximum mesh. The mesh shall be made from:
 - (A) nonrusting, galvanized welded steel; or
 - (B) an equivalent material.
 - (3) The:
 - (A) walls;
 - (B) roof; and
 - (C) floor;
 of the cage shall be constructed of one (1) inch by two (2) inch maximum mesh.
- (f) Foxes must be provided with the following:
 - (1) A sheltered retreat and either:
 - (A) a den; or
 - (B) an elevated wood platform.
 - (2) Limbs.
 - (3) The cage floor shall have a three (3) foot barrier or apron around the inside of the cage. The barrier shall be constructed of one (1) inch by two (2) inch maximum mesh. The mesh shall be made from:
 - (A) nonrusting, galvanized welded steel; or
 - (B) an equivalent material.
 - (4) The:

- (A) walls;
 - (B) roof; and
 - (C) floor;
- of the cage shall be constructed of one (1) inch by two (2) inch maximum mesh.
- (g) Minks must be provided with the following:
 - (1) A nest box or sheltered retreat with bedding.
 - (2) Limbs.
 - (3) The:
 - (A) walls;
 - (B) roof; and
 - (C) floor;
 of the cage shall be constructed with mesh not larger than one (1) inch.
 - (h) Muskrats must be provided with the following:
 - (1) A nest box or sheltered retreat.
 - (2) Gnawing logs.
 - (3) A pool of fresh water with easy access. **Half One-half (½)** of the required floor space shall be a pool of water at least two and one-half (2½) feet deep.
 - (4) The:
 - (A) walls;
 - (B) roof; and
 - (C) floor;
 of the cage shall be constructed with mesh **which that** is not larger than one and one-half (1½) inches.
 - (i) Opossums must be provided with the following:
 - (1) A nest box or sheltered retreat.
 - (2) Limbs.
 - (3) The:
 - (A) walls;
 - (B) roof; and
 - (C) floor;
 of the cage shall be constructed with mesh **which that** is not larger than two (2) inches.
 - (j) Raccoons must be provided with the following:
 - (1) A nest box or sheltered retreat.
 - (2) Limbs.
 - (3) A:
 - (A) wading pool; or
 - (B) water container;
 appropriate to the size of the animal.
 - (4) The:
 - (A) walls;
 - (B) roof; and
 - (C) floor;
 of the cage shall be constructed with mesh **which that** is not larger than two (2) inches.
 - (k) Skunks must be provided with the following:
 - (1) A nest box or sheltered retreat.

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(2) The:

- (A) walls;
- (B) roof; and
- (C) floor;

of the cage shall be constructed with mesh ~~which that~~ is not larger than two (2) inches.

(l) Weasels must be provided with the following:

- (1) A nest box or sheltered retreat.
- (2) Limbs.
- (3) ~~For long-tailed weasels~~; The walls, roof, and floor of the cage shall be constructed from mesh ~~which that~~ is not larger than **as follows**:

- (A) ~~For long-tailed weasels~~, one (1) inch.
- ~~(4) (B) For least weasels, the walls, roof, and floor of the cage shall be constructed from mesh which is not larger than one-half (1/2) inch.~~

(m) Wolves must be provided with the following:

- (1) A sheltered retreat and either:
 - (A) a den; or
 - (B) an elevated wood platform.
- (2) The walls, roof, and floor of the cage shall be constructed of not less than eleven and one-half (11½) gauge steel chain link with:
 - (A) a two and one-half (2½) inch maximum mesh; or
 - (B) the equivalent.
- (3) A three (3) foot incline at the top of an eight (8) foot wall may be substituted for a full roof. The height of the fence is measured to the top of the incline. The incline must be forty-five (45) degrees.

(n) Bears must be provided with the following:

- (1) For sun bears, Asiatic bears, sloth bears, and spectacled bears, the following:
 - (A) A den with shavings, straw, or a wooden platform or flooring for reclining. The den shall:
 - (i) have a floor space of at least four (4) feet by four (4) feet; and ~~shall~~
 - (ii) be at least four (4) feet high.
 - (B) A suitable scratching post.
 - (C) An indestructible pool or tub. The pool or tub shall:
 - (i) contain at least twelve and one-half (12½) feet of surface area; and
 - (ii) be at least two (2) feet deep.
 - (D) The:
 - (i) walls;
 - (ii) roof; and
 - (iii) floor;of the cage shall be constructed of not less than nine (9) gauge steel chain link.
 - (E) For:
 - (i) sun bears;
 - (ii) sloth bears; and
 - (iii) spectacled bears;

an artificial heat source that is sufficient to maintain a minimum ambient air temperature of forty-five (45) degrees Fahrenheit. ~~(45°F)~~.

(2) For American black bears, European brown bears, and Russian brown bears, the following:

- (A) A den with shavings, straw, or a wooden platform or floor for reclining. The den shall:
 - (i) have a floor space of at least four (4) feet by six (6) feet; and ~~shall~~
 - (ii) be at least four (4) feet high.
- (B) A suitable scratching post.
- (C) An indestructible pool or tub. The pool or tub shall:
 - (i) contain at least twenty-eight (28) square feet of surface area; and
 - (ii) be at least three (3) feet deep.

(D) The:

- (i) walls;
- (ii) roof; and
- (iii) floor;

of the cage shall be constructed of not less than nine (9) gauge steel chain link.

(3) For polar, grizzly, and Kodiak bears, the following:

- (A) A den with shavings, straw, or a wooden platform or flooring for reclining. The den shall:
 - (i) have a floor space of at least six (6) feet by six (6) feet; ~~of floor space and shall~~
 - (ii) be at least six (6) feet high.
- (B) A suitable scratching post.
- (C) An indestructible pool or tub. The pool or tub shall:
 - (i) contain at least seventy-eight (78) square feet of surface area; and
 - (ii) be at least three (3) feet deep.

(D) The:

- (i) walls;
- (ii) roof; and
- (iii) floor;

of the cage shall be constructed of not less than six (6) gauge steel chain link.

(o) Cats must be provided with the following:

- (1) For lions, tigers, cheetahs, snow leopards, and their hybrids, the following:
 - (A) A den adequate to provide privacy and comfort for all animals in the enclosure.
 - (B) An elevated:
 - (i) wooden loafing platform; or ~~an elevated~~
 - (ii) dry natural substrate loafing area;large enough for all animals in the enclosure.
 - (C) A tree limb or other suitable scratching block.
 - (D) For lions and tigers, the walls, roof, and floor of the cage shall be constructed of not less than nine (9) gauge steel chain link with:
 - (i) a two and one-half (2½) inch mesh maximum; or
 - (ii) the equivalent.A three (3) foot incline at the top of a fourteen (14) foot

wall may be substituted for a full roof. The height of the fence is measured to the top of the incline. The incline must be forty-five (45) degrees.

(E) For cheetahs and snow leopards, the walls, roof, and floor of the cage shall be constructed of not less than eleven and one-half (11½) gauge steel chain link with:

- (i) a two and one-half (2½) inch mesh maximum; or
- (ii) the equivalent.

For cheetahs, a three (3) foot incline at the top of the eight (8) foot wall may be substituted for a full roof. The height of the fence is measured to the top of the incline. The incline must be forty-five (45) degrees.

(F) For lions and cheetahs, an artificial heat source that is sufficient to maintain a minimum ambient air temperature of forty-five (45) degrees Fahrenheit. ~~(45°F)~~

(2) For black leopards, spotted leopards, jaguars, clouded leopards, mountain lions (also sometimes called pumas or cougars), European lynxes, and their hybrids, the following:

(A) Dens large enough to provide privacy and comfort to all animals in the enclosure.

(B) An elevated:

- (i) wood loafing platform; or ~~an elevated~~
- (ii) dry natural substrate loafing area; within the enclosure.

(C) A tree limb or other suitable scratching block.

(D) For black leopards, spotted leopards, jaguars, and mountain lions, the walls, roof, and floor of the cage shall be constructed of not less than nine (9) gauge steel chain link with:

- (i) a two and one-half (2½) inch mesh maximum; or
- (ii) the equivalent.

(E) For black leopards, spotted leopards, jaguars, and mountain lions, a three (3) foot incline at the top of a fourteen (14) foot wall may be substituted for a full roof. The height of the fence is measured to the top of the incline. The incline must be forty-five (45) degrees.

(F) For clouded leopards and European lynxes, the walls, roof, and floor of the cage shall be constructed of not less than eleven and one-half (11½) gauge steel chain link with:

- (i) a two and one-half (2½) inch maximum mesh; or
- (ii) the equivalent.

(3) For caracals, Canada lynxes, golden cats, ocelots, servals, jungle cats, fishing cats, **bobcats**, and their hybrids, the following:

(A) Dens large enough to provide privacy and comfort to all animals in the enclosure.

(B) An elevated:

- (i) wooden loafing platform; or ~~an elevated~~
- (ii) dry natural substrate loafing area; large enough for all animals within the enclosure.

(C) A tree limb or other suitable scratching block.

(D) The:

- (i) walls;
- (ii) roof; and

(iii) floor;

of the cage shall be constructed of one (1) inch by two (2) inch maximum mesh. Any weld must be as strong as the wire.

(E) ~~For golden cats~~; An artificial heat source that is sufficient to maintain a minimum ambient air temperature of **as follows**:

(i) **For golden cats**, forty-five (45) degrees Fahrenheit. ~~(45°F)~~;

~~(F)~~ (ii) For jungle cats and serval cats, **an artificial heat source that is sufficient to maintain the ambient air temperature of fifty-five (55) degrees Fahrenheit.** ~~(55°F)~~;

(4) For margays, leopard cats, pallas cats, marble cats, Geoffrey's cats, African wild cats, European wild cats, jaguarundis, little spotted cats, African black footed cats, sand cats, flatheaded cats, pampas cats, and their hybrids, the following:

(A) Dens large enough to provide privacy and comfort to all animals in the enclosure.

(B) An elevated:

- (i) wooden loafing platform; or ~~an elevated~~
- (ii) dry natural substrate loafing area;

large enough for all animals within the enclosure. The top of the den or den box may be designed to meet this requirement.

(C) A tree limb or other suitable scratching block.

(D) The:

- (i) walls;
- (ii) roof; and
- (iii) floor;

of the cage shall be constructed of one (1) inch by two (2) inch maximum mesh. Any weld must be as strong as the wire.

(E) ~~For pallas cats~~; An artificial heat source that is sufficient to maintain a minimum ambient air temperature of **as follows**:

(i) **For pallas cats**, forty-five (45) degrees Fahrenheit. ~~(45°F) shall be provided~~;

~~(F)~~ (ii) For Geoffrey's cats, leopard cats, African wild cats, little spotted cats, African black footed cats, sand cats, flat headed cats, and pampas cats, **an artificial heat source that is sufficient to maintain a minimum ambient air temperature of fifty-five (55) degrees Fahrenheit.** ~~(55°F)~~;

(Natural Resources Commission; 312 IAC 9-11-13; filed May 12, 1997, 10:00 a.m.: 20 IR 2741; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 29, 2005 at 5:00 p.m., at the Conference Room, Atterbury Fish and Wildlife Area Office, 7970 South Rowe Street, Edinburgh, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments to 312 IAC 9 concerning

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taking, chasing, and possessing wild animals; fishing, hunting, and trapping without a license by owners and lessees of farmland; tagging requirements for deer hunting; hunting deer by firearms; coyotes; bobcats; river otters; badgers; endangered species of mammals; migratory birds and waterfowl; mute swans; tagging requirements for wild turkey hunting; turtle possession permits; taxidermist licenses; nuisance wild animal control permits; fur buyers' licenses; and confining, enclosing, and housing bobcats under a wild animal possession permit.

The natural resources commission has the authority to adopt the proposed rules under IC 14-10-2-4 and under IC 14-22-2-6. As more particularly described in the foregoing IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses, the department of natural resources has estimated that some small businesses will be directly affected by some of the proposed changes. These impacts are believed offset by the agency's statutory responsibilities for protection of natural resources, including wild animals, as well as for the long term sustainability of the resources used by the affected small businesses.

Copies of the proposed rules (together with any data, studies, or analyses relied upon under IC 4-22-2-24(d)) are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana and are open for public inspection.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Kiley
Chairman
Natural Resources Commission

TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule LSA Document #05-230 DIGEST

Amends 326 IAC 1-1-3 concerning references to the Code of Federal Regulations. Effective 30 days after filing with the Secretary of State.

HISTORY

IC 13-14-9-8 Notice and Notice of First Hearing: September 1, 2005, Indiana Register (28 IR 3677).

Date of First Hearing: October 5, 2005.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4 until the board has conducted a

third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on September 1, 2005, at 28 IR 3677, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On October 5, 2005, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 1-1-3. No comments were made at the first hearing.

326 IAC 1-1-3

SECTION 1. 326 IAC 1-1-3, PROPOSED TO BE AMENDED AT 28 IR 1815, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-1-3 References to the Code of Federal Regulations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 3. Unless otherwise indicated, any reference to a provision of the Code of Federal Regulations (CFR) shall mean the July 1, ~~2004~~, 2005, edition*.

*This body of documents is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 1-1-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2369; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1102; filed Dec 14, 1989, 9:35 a.m.: 13 IR 868; filed Aug 9, 1991, 11:00 a.m.: 14 IR 2218; filed May 25, 1994, 11:00 a.m.: 17 IR 2237; filed Jul 25, 1995, 5:00 p.m.: 18 IR 3381; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3298; filed Oct 30, 2000, 2:13 p.m.: 24 IR 667; filed May 21, 2002, 10:20 a.m.: 25 IR 3054; filed Aug 26, 2004, 11:30 a.m.: 28 IR 17*)

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on December 7, 2005 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed amendments to 326 IAC 1-1-3.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed

amendments. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Gayl Killough, Rule Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

Indiana Government Center-North

100 North Senate Avenue

Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule

LSA Document #05-235

DIGEST

Amends 326 IAC 1-3-4 concerning particulate matter ambient air quality standards. Effective 30 days after filing with the Secretary of State.

HISTORY

IC 13-14-9 Notice and Notice of First Hearing: September 1, 2005, Indiana Register (28 IR 3679).

Date of First Hearing: October 5, 2005.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4 until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on September 1, 2005, at 28 IR 3679, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS RECEIVED

AT THE FIRST PUBLIC HEARING

On October 5, 2005, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 1-3-4. No comments were made at the first hearing.

326 IAC 1-3-4

SECTION 1. 326 IAC 1-3-4, AS AMENDED AT 28 IR 1471, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-3-4 Ambient air quality standards

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. (a) All measurements of air quality that are expressed as mass per unit volume, ~~micrograms per cubic meter ($\mu\text{g}/\text{m}^3$),~~ other than for the particulate matter (~~PM_{10} and $\text{PM}_{2.5}$~~), standards **contained in subsection (b)(8)**, shall be corrected to a reference temperature of twenty-five (25) degrees Celsius and to a reference pressure of seven hundred sixty (760) millimeters of mercury (one thousand thirteen and two-tenths (1,013.2) millibars), as micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Measurements of ~~PM_{10} and $\text{PM}_{2.5}$~~ , for purposes of **comparison to** the standards contained in subsection ~~(b)(7) and (b)(8)~~, shall be reported based on actual ambient air volume measured at the actual ambient temperature and pressure at the monitoring site during the measurement period.

(b) Ambient air quality standards are as follows:

(1) Sulfur oxides as sulfur dioxide (SO_2) requirements are as follows:

(A) For primary standards, the following values shall represent the maximum permissible ambient air quality levels:

(i) Eighty (80) $\mu\text{g}/\text{m}^3$ (three-hundredths (0.03) parts per million (ppm)) annual arithmetic mean not to be exceeded in a calendar year.

(ii) Three hundred sixty-five (365) $\mu\text{g}/\text{m}^3$ (fourteen-hundredths (0.14) ppm) maximum twenty-four (24) hour average concentration not to be exceeded more than once per calendar year. The twenty-four (24) hour averages shall be determined from successive nonoverlapping three (3) hour blocks starting at midnight each calendar day.

(B) For secondary standards, the following value shall represent the maximum permissible ambient air quality levels: one thousand three hundred (1,300) $\mu\text{g}/\text{m}^3$ (five-tenths (0.5) ppm) maximum three (3) hour concentration not to be exceeded more than once per year. The three (3) hour averages shall be determined from successive nonoverlapping three (3) hour blocks starting at midnight each calendar day.

(C) SO_2 values may be converted to ppm using the conversion factor two thousand six hundred twenty (2,620) $\mu\text{g}/\text{m}^3$ = one (1) ppm.

(2) Total suspended particulates (TSP) requirements are as follows:

(A) For primary standards, the following values shall represent

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the maximum permissible ambient air quality levels:

- (i) Seventy-five (75) $\mu\text{g}/\text{m}^3$ annual geometric mean.
- (ii) Two hundred sixty (260) $\mu\text{g}/\text{m}^3$ maximum twenty-four (24) hour average concentration not to be exceeded more than one (1) day per year.

(B) For secondary standards, the following value shall represent maximum permissible ambient air quality levels: one hundred fifty (150) $\mu\text{g}/\text{m}^3$ maximum twenty-four (24) hour average concentration not to be exceeded more than one (1) day per year.

(3) Carbon monoxide (CO) requirements are as follows:

(A) For primary and secondary standards, the following values shall represent the maximum permissible ambient air quality levels:

- (i) Ten (10) milligrams per cubic meter (mg/m^3) (ten thousand (10,000) $\mu\text{g}/\text{m}^3$) (nine (9) ppm) maximum eight (8) hour average concentration not to be exceeded more than once per year.
- (ii) Forty (40) mg/m^3 (forty thousand (40,000) $\mu\text{g}/\text{m}^3$) (thirty-five (35) ppm) maximum one (1) hour average concentration not to be exceeded more than once per year.

(B) CO values may be converted to ppm using the conversion factor one thousand one hundred forty-five (1,145) $\mu\text{g}/\text{m}^3 = \text{one (1) ppm}$.

(4) Ozone (O_3) requirements are as follows:

(A) For the one (1) hour ozone standards, the level of the one (1) hour primary and secondary ambient air quality standards for ozone measured by a reference method based on 40 CFR 50, Appendix D* and designated in accordance with 40 CFR 53* is twelve-hundredths (0.12) ppm (two hundred thirty-five (235) $\mu\text{g}/\text{m}^3$). The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above twelve-hundredths (0.12) ppm (two hundred thirty-five (235) $\mu\text{g}/\text{m}^3$) is equal to or less than one (1) as determined by 40 CFR 50, Appendix H*.

(B) For the eight (8) hour ozone standards, the:

- (i) level of the eight (8) hour primary and secondary ambient air quality standards for ozone, measured by a reference method based on 40 CFR 50, Appendix D* and designated in accordance with 40 CFR 53*, is eight-hundredths (0.08) ppm, daily maximum eight (8) hour average; and
- (ii) eight (8) hour primary and secondary ozone ambient air quality standards are met at an ambient air quality monitoring site when the average of the annual fourth highest daily maximum eight (8) hour average ozone concentration is less than or equal to eight-hundredths (0.08) ppm as determined in accordance with 40 CFR 50, Appendix I*.

(C) O_3 values may be converted to ppm using the conversion factor one thousand nine hundred sixty-five (1,965) $\mu\text{g}/\text{m}^3 = 1.0 \text{ ppm}$.

(5) Nitrogen dioxide (NO_2) requirements are as follows:

(A) For primary and secondary standards, the following value shall represent the maximum permissible ambient air

quality level: one hundred (100) $\mu\text{g}/\text{m}^3$ (~~five-hundredths~~ **(fifty-three thousandths (0.053) ppm)** annual arithmetic mean concentration in a calendar year.

(B) NO_2 values may be converted to ppm using the conversion factor one thousand eight hundred eighty (1,880) $\mu\text{g}/\text{m}^3 = \text{one (1) ppm}$.

(6) Lead (Pb): For primary and secondary standards, the following value shall represent the maximum permissible ambient air quality level: one and five-tenths (1.5) micrograms lead per cubic meter of air (μg of Pb/m^3), averaged over a calendar quarter and measured as elemental lead.

(7) PM_{10} : For primary and secondary standards, the following values shall represent the maximum permissible ambient air quality levels:

(A) Fifty (50) $\mu\text{g}/\text{m}^3$ annual arithmetic mean. The standards are attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix K*, is less than or equal to fifty (50) $\mu\text{g}/\text{m}^3$.

(B) One hundred fifty (150) $\mu\text{g}/\text{m}^3$ maximum twenty-four (24) hour average concentration. The standards are attained when the expected number of days per calendar year with a twenty-four (24) hour average concentration above one hundred fifty (150) $\mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR 50, Appendix K*, is equal to or less than one (1).

(8) $\text{PM}_{2.5}$: For primary and secondary standards, the following values shall represent the maximum permissible ambient air quality levels:

(A) Fifteen (15) micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) annual arithmetic mean concentration. The standards are attained when the annual arithmetic mean concentration is less than or equal to fifteen (15) $\mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR 50, Appendix N* and measured in the ambient air as $\text{PM}_{2.5}$ by either:

- (i) a reference method based on 40 CFR 50, Appendix L*, and designated in accordance with 40 CFR 53*; or
- (ii) an equivalent method designated in accordance with 40 CFR 53*.

(B) Sixty-five (65) $\mu\text{g}/\text{m}^3$ twenty-four (24) hour average concentration. The standards are attained when the ninety-eighth percentile twenty-four (24) hour concentration is less than or equal to sixty-five (65) micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), as determined in accordance with 40 CFR 50, Appendix N and measured in the ambient air as $\text{PM}_{2.5}$ by either:

- (i) a reference method based on 40 CFR 50, Appendix L*, and designated in accordance of 40 CFR 53*; or
- (ii) an equivalent method designated in accordance with 40 CFR 53*.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, India-

napolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 1-3-4; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2378; filed Apr 13, 1988, 3:35 p.m.: 11 IR 3020; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed May 21, 2002, 10:20 a.m.: 25 IR 3055; filed Mar 9, 2004, 3:45 p.m.: 27 IR 2224; filed Dec 20, 2004, 2:15 p.m.: 28 IR 1471)

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on December 7, 2005 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed amendments to 326 IAC 1-3-4.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Gayl Killough, Rule Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
Indiana Government Center-North
100 North Senate Avenue
Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

for hazardous air pollutants for steel pickling hydrochloric acid process sources and hydrochloric acid regeneration plants. Effective 30 days after filing with the Secretary of State.

HISTORY

IC 13-14-9 Notice and Notice of First Hearing: September 1, 2005, Indiana Register (28 IR 3682).

Date of First Hearing: October 5, 2005.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4 until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on September 1, 2005, at 28 IR 3682, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On October 5, 2005, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of new rule 326 IAC 20-29. No comments were made at the first hearing.

326 IAC 20-29

SECTION 1. 326 IAC 20-29 IS ADDED TO READ AS FOLLOWS:

Rule 29. Hydrochloric Acid Steel Pickling and Regeneration Plants

326 IAC 20-29-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.1155*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart CCC*.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 20-29-1)

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on December 7, 2005 at 1:00 p.m., at the

TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule

LSA Document #05-236

DIGEST

Adds 326 IAC 20-29 concerning national emission standards

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Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed new rule 326 IAC 20-29.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed new. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Gayl Killough, Rule Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

Indiana Government Center-North

100 North Senate Avenue

Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule

LSA Document #05-200

DIGEST

Amends 405 IAC 1-11.5-2 to allow for the reimbursement of services provided by certified physical therapists' assistants. Amends 405 IAC 5-22-8 to provide supervision requirements for services provided by certified physical therapists' assistants. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Small businesses that may be impacted by this rule change would consist of Medicaid providers that render physical therapy services to Medicaid recipients and bill on the medical

claim format. This includes providers enrolled in Medicaid as licensed physical therapists or therapy clinics. The agency's Management Reporting System shows that, for calendar year 2004, there were 113 enrolled therapy clinics, of which 80 have participated (e.g., submitted claims for payment) in 2004. There are 229 enrolled physical therapists, of which 150 have participated in 2004. Thus, the rule is expected to impact an estimated 230 total small businesses.

There would be no reporting requirements imposed on providers associated with this rule change. There would be a very minor administrative impact on how providers complete claims for payment. If a physical therapy assistant provides the billed service rather than the physical therapist, the provider would need to add a modifier to the procedure code billed. This is the only administrative change. Providers would receive advance notice of this change and would receive written instructions on implementing the change.

This proposed rule also includes a slight reduction in Medicaid reimbursement for services rendered by physical therapy assistants. Assistants would be paid 75% of the allowance paid to a physical therapist performing the same service. This is in line with the reimbursement policy for other midlevel practitioners (for example, an enrolled nurse practitioner is paid 75% of the rate paid to a physician performing the same service). Currently services performed by a physical therapy assistant versus a licensed physical therapist are not identified. The agency can identify, however, the amount paid for physical therapy services. Based on calendar year 2004, approximately \$600,000 was paid for physical therapy services billed on the medical claim form. Estimating that 25% of these services are performed by assistants would result in expenditures of \$150,000. If the agency reduced payment for services performed by assistants by 25%, the total annual fiscal impact spread over all providers would be \$37,500. Spreading the annual reduction across participating providers in 2004 (230) would result in an average annual impact of \$163 per provider.

The proposed change in the physical therapy rule sprang from an issue that was raised by the Indiana Chapter of the American Physical Therapy Association regarding the discrepancy of supervision requirements between Medicaid's rule and the Medical Licensing Board's rule at 844 IAC 6-1-2(e) regarding physical therapy assistant (PTA) practice. The agency's rule was more restrictive, thus it is revised. Since the agency will now be identifying services performed by a physical therapy assistant, versus those performed by a licensed therapist, the reimbursement methodology was revised to pay physical therapy assistants 75% of the rate paid to therapists performing the same service. As indicated above, this is similar to the way the agency reimburses other midlevel practitioners (such as nurse practitioners).

The administrative and fiscal impacts to small businesses resulting from this rule are minor. It should be noted that the change in supervision requirements for physical therapy assistants could benefit providers, as it lifts the "onsite" supervision requirement, and equates to the direct supervision

requirements that exist in the physical therapy practice rules found in 844 IAC 6.

405 IAC 1-11.5-2

405 IAC 5-22-8

SECTION 1. 405 IAC 1-11.5-2 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-11.5-2 Reimbursement methodology

Authority: IC 12-15-21-2; IC 12-15-21-3

Affected: IC 12-15-13-2

Sec. 2. (a) The office shall establish fee schedules with maximum allowable payment amounts for services and procedures:

- (1) covered under the Medicaid program; and
- (2) provided by eligible physicians, LLPs, and other NPPs.

(b) The reimbursement for services of physicians and LLPs shall be determined as follows:

(1) Reimbursement for services of physicians and LLPs, except services of the physicians in subdivisions (3) through (10), shall be equal to the lower of the following:

- (A) The submitted charges for the procedure.
- (B) The established fee schedule allowance for the procedure. The statewide established fee schedule allowance for the procedure is based on the Medicare relative value unit for an Indiana urban locality multiplied by the conversion factor for the procedure as established by the office of Medicaid policy and planning (office).

(2) If no Medicare relative value unit, as defined in this section, exists for a procedure, reimbursement will be established as follows:

- (A) Relative value units may be:
 - (i) obtained from other state Medicaid programs; or ~~may be~~
 - (ii) developed specifically for the Indiana Medicaid program, subject to review by the Medicaid director.

(B) For laboratory procedures not included in the Medicare Part B fee schedule for physician services, reimbursement will be made using the fee value in the national Medicare clinical laboratory fee schedule.

(3) The office may set reimbursement for specific procedure codes using a different methodology from that specified in subdivisions (1) and (2) in order to preserve access to the specific service.

(4) Reimbursement for services of anesthesiologists shall be based on a statewide fee schedule. The statewide fee schedule for anesthesiology services is based on the total base and time units for the procedure multiplied by the conversion factor as established by the office.

(5) Reimbursement for services of assistant surgeons shall be equal to twenty percent (20%) of the statewide fee schedule for physician and LLP services as established under subdivision (1).

(6) Reimbursement for services of cosurgeons shall be paid at sixty-two and one-half percent (62.5%) of the statewide fee schedule for physician and LLP services as established under subdivision (1).

(7) Reimbursement for services of physicians and LLPs shall be subject to the global surgery policy as defined by the Health Care Financing Administration for the Medicare Part B fee schedule for physician services. The global surgery policy will not apply to the following codes:

(A) 59410—Vaginal delivery, including postpartum care.

(B) 59515—Caesarean delivery, including postpartum care.

(8) Reimbursement for services of physicians and LLPs shall be subject to the policy for supplies and services incident to other procedures as defined by the Health Care Financing Administration for the Medicare Part B fee schedule for physician services.

(9) Separate reimbursement will not be made for radiologic contrast material, except for low osmolar contrast material (LOCM) used in intrathecal, intravenous, and in intra-arterial injections, if it is used for patients who meet the criteria established by the office.

(10) Reimbursement for services of physicians and LLPs shall be subject to the site of service payment adjustment. Procedures performed in an outpatient setting that are normally provided in a physician's office will be paid at eighty percent (80%) of the statewide fee schedule for physician and LLP services as established under subdivision (1). These procedures are identified using the site of service indicator on the Medicare fee schedule database.

(c) Reimbursement for services of NPPs shall be in accordance with the following:

(1) Reimbursement for services of dentists in calendar year 1994 shall be based on a statewide fee schedule equal to a percentage of the fiscal year 1992 submitted charges. That percentage shall be no lower than the average percentage difference between physician and LLP submitted charges and the fee established for those services in accordance with subsection (b)(1). The office may set reimbursement for specific dental procedures using a different methodology from that specified in this subdivision in order to preserve access to the service. Beginning with the effective date of this revised rule, fees for covered dental services are priced at the levels in effect at the end of calendar year 1994, increased by a percentage determined by the office.

(2) Reimbursement for services of:

(A) social workers certified through the American Academy of Certified Social Workers (ACSW) or who have masters of social work (MSW) degrees;

(B) psychologists with basic certificates; and

(C) licensed psychologists;

providing outpatient mental health services in a physician-directed outpatient mental health facility in accordance with ~~405 IAC 1-6-13 and 405 IAC 1-7-20~~ **405 IAC 5-20-8** shall be equal to seventy-five percent (75%) of the physician and

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LLP fees for that service as established under subsection (b)(1). These services must continue to be billed through a physician or a physician-directed outpatient mental health facility.

(3) Reimbursement for services provided by independently practicing respiratory therapists and advance practice nurses shall be equal to seventy-five percent (75%) of the physician and LLP fees for that service as established under subsection (b)(1).

(4) Reimbursement for services provided by certified physical therapists' assistants shall be equal to seventy-five percent (75%) of the physician and LLP fees for that service as established under subsection (b)(1). These services must be billed through the supervising licensed physical therapist or physician.

~~(4)~~ (5) Reimbursement for services of all other NPPs shall be equal to the statewide fee schedule for physician and LLP services as established under subsection (b)(1).

(d) The established rates for physician, LLP, and NPP reimbursement shall be reviewed annually by the office and adjusted as necessary.

(e) The relative value units used for the Indiana resource-based relative value scale fee schedule will be reviewed annually, taking into account the Medicare fee schedule proposed by the Health Care Financing Administration to take effect January 1 of the following calendar year and adjusted as necessary. (*Office of the Secretary of Family and Social Services; 405 IAC 1-11.5-2; filed Sep 6, 1994, 3:25 p.m.: 18 IR 88; errata filed Oct 18, 1994, 3:25 p.m.: 18 IR 532; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2767; errata filed Sep 29, 1995, 1:30 p.m.: 19 IR 209; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822*)

SECTION 2. 405 IAC 5-22-8 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-22-8 Physical therapy services

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 8. Physical therapy services are subject to the following restrictions:

(1) The physical therapy service must be performed by a licensed physical therapist or certified ~~therapist~~ **physical therapist's** assistant under the direct ~~on-site~~ supervision of a licensed physical therapist **or physician as defined in 844 IAC 6-1-2(e)** for reimbursement. Only the activities in this subdivision related to the therapy can be performed by someone other than a licensed therapist or certified ~~therapist~~ **physical therapist's** assistant who must be under the direct ~~on-site~~ supervision of a licensed physical therapist. Payment for the following services is included in the Medicaid allowance for the modality provided by the licensed therapist and may not be billed separately to Medicaid:

(A) Assisting patients in preparation for and, as necessary, during and at the conclusion of treatment.

(B) Assembling and disassembling equipment.

(C) Assisting the physical therapist in the performance of appropriate activities related to the treatment of the individual patient.

(D) Following established procedures pertaining to the care of equipment and supplies.

(E) Preparing, maintaining, and cleaning treatment areas and maintaining supportive areas.

(F) Transporting:

(i) patients;

(ii) records;

(iii) equipment; and

(iv) supplies;

in accordance with established policies and procedures.

(G) Performing established clerical procedures.

(2) Certified physical therapists' assistants may provide services only under the direct supervision of a licensed physical therapist or physician as defined in 844 IAC 6-1-2(e).

~~(2)~~ (3) Evaluations and reevaluations are limited to three (3) hours of service per recipient evaluation. The initial evaluation does not require prior authorization. Any additional reevaluations require prior authorization unless they are conducted during the initial thirty (30) days after hospital discharge and the discharge orders include physical therapy orders. Reevaluations will not be authorized more than one (1) time yearly unless documentation indicating significant change in the patient's condition is submitted. It is the responsibility of the provider to determine if evaluation services have been previously provided.

~~(3)~~ (4) Physical therapy services ordered in writing to treat an acute medical condition provided in an outpatient setting may continue for a period not to exceed twelve (12) hours, sessions, or visits in thirty (30) calendar days without prior authorization. This exception includes the provision of splints, crutches, and canes. Prior authorization must be obtained for additional services.

~~(4)~~ (5) Physical therapy services provided by a nursing facility or large private or small ICF/MR, which are included in the facility's per diem rate, do not require prior authorization.

(*Office of the Secretary of Family and Social Services; 405 IAC 5-22-8; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3341; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 22, 2005 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 22, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed amendments concerning reimbursement for physical therapists'

assistants' services.

In accordance with public notice requirements established at 42 CFR 447.205 and IC 4-22-2-24(d), the Indiana Family and Social Services Administration, Office of Medicaid Policy and Planning publishes this notice of proposed changes to the reimbursement methodology for physical therapy services.

This rule is being amended due to concerns raised by the Indiana Chapter of the American Physical Therapy Association that supervision requirements for certified physical therapists' assistants were more restrictive under Medicaid reimbursement rules than professional requirements under 844 IAC 6-1-2(e). Because services by an assistant are to be recognized, reimbursement methodology is amended to pay similarly to other midlevel practitioners.

It is estimated that the fiscal impact of these changes will result in an annual reduction of expenditures of state and federal dollars between approximately \$19,000 and \$95,000.

Copies of proposed amendments to the rules (405 IAC 1-11.5-2 and 405 IAC 5-22-8) are now available (along with copies of this public notice) and may be inspected by contacting the Director of the local County Division of Family Resources office, except in Marion County, where public inspection may be made at the Indiana Government Center-South, 402 West Washington Street, Room W382, Indianapolis, Indiana. Written comments may be directed to IFSSA, Attention: Kate Bowen, Indiana Government Center-South, 402 West Washington Street, Room W382, P.O. Box 7083, Indianapolis, Indiana 46207-7083. Correspondence should be identified in the following manner: "COMMENT RE: LSA DOCUMENT #05-220 PROPOSED CHANGES TO PHYSICAL THERAPY REIMBURSEMENT". Written comments received will be made available for public display at the address herein of the Office of Medicaid Policy and Planning.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

E. Mitchell Roob Jr.
Secretary
Office of the Secretary of Family and Social Services

**TITLE 405 OFFICE OF THE SECRETARY OF
FAMILY AND SOCIAL SERVICES**

Proposed Rule
LSA Document #05-220

DIGEST

Amends 405 IAC 5-3-13 to allow for reimbursement for genetic testing for detection of cancer of the breast or breasts or ovaries. Amends 405 IAC 5-5-1 to allow for reimbursement for

diagnostic services, including genetic testing, when provided out-of-state. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Indiana Code 4-22-2.1-5 requires an agency to submit to the Legislative Services Agency and the Indiana Economic Development Corporation a statement of economic impact of any proposed rule with an economic impact on small businesses. The IEDC is required to review the rule and submit written comments to the agency no later than seven days before the public hearing.

The Office of Medicaid Policy and Planning has reviewed the proposed rule to determine the economic impact of the rule on small businesses. The Office of Medicaid Policy and Planning has determined, based on the information available at the time of rule promulgation, that the proposed rule does not impose requirements or costs on small businesses. Therefore, the agency did not submit a statement of economic impact to the Legislative Services Agency and the Indiana Economic Development Corporation.

In reaching this conclusion, the agency determined that the proposed rule is adding a service where existing billing procedures, which providers currently follow, will apply. Further, providers will be positively impacted by the agency's decision to cover a service for which coverage had previously been denied.

**405 IAC 5-3-13
405 IAC 5-5-1**

SECTION 1. 405 IAC 5-3-13, AS AMENDED AT 28 IR 2132, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-3-13 Services requiring prior authorization

Authority: IC 12-8-6-3; IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 13. (a) Medicaid reimbursement is available for the following services with prior authorization:

- (1) Reduction mammoplasties.
- (2) Rhinoplasty or bridge repair of the nose when related to a significant obstructive breathing problem.
- (3) Intersex surgery.
- (4) Blepharoplasties for a significant obstructive vision problem.
- (5) Sliding mandibular osteotomies for prognathism or micrognathism.
- (6) Reconstructive or plastic surgery.
- (7) Bone marrow or stem cell transplants.
- (8) All organ transplants covered by the Medicaid program.
- (9) Home health services.
- (10) Maxillofacial surgeries related to diseases and conditions of the jaws and contiguous structures.

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- (11) Temporomandibular joint surgery.
- (12) Submucous resection of nasal septum and septoplasty when associated with significant obstruction.
- (13) Weight reduction surgery, including gastroplasty and related gastrointestinal surgery.
- (14) Any procedure ordinarily rendered on an outpatient basis, when rendered on an inpatient basis.
- (15) All dental admissions.
- (16) Brand medically necessary drugs.
- (17) Other drugs as specified in accordance with 405 IAC 5-24-8.5.
- (18) Psychiatric inpatient admissions, including admissions for substance abuse.
- (19) Rehabilitation inpatient admissions.
- (20) Assertive community treatment intensive case management as provided under 405 IAC 5-21-1.
- (21) Orthodontic procedures for members under twenty-one (21) years of age for cases of craniofacial deformity or cleft palate.
- (22) Genetic testing for detection of cancer of the breast or breasts or ovaries.**

~~(22)~~ (23) As otherwise specified in this article.

If any of the surgeries listed in this section are performed during a hospital stay for another condition, prior authorization is required for the surgical procedure.

(b) Requests for prior authorization for the surgical procedures in this section will be reviewed for medical necessity on a case-by-case basis in accordance with this rule. (*Office of the Secretary of Family and Social Services; 405 IAC 5-3-13; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3306; filed Sep 1, 2000, 2:16 p.m.: 24 IR 14; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jan 7, 2002, 10:11 a.m.: 25 IR 1613; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2244; filed Feb 14, 2005, 10:25 a.m.: 28 IR 2132*)

SECTION 2. 405 IAC 5-5-1 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-5-1 Out-of-state services; general

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3

Affected: IC 12-13-7-3; IC 12-15

Sec. 1. Medicaid reimbursement is available for the following services provided outside Indiana:

- (1) Acute general hospital care.
- (2) Physician services.
- (3) Dental services.
- (4) Pharmacy services.
- (5) Transportation services.
- (6) Therapy services.
- (7) Podiatry services.
- (8) Chiropractic services.
- (9) Durable medical equipment and supplies.
- (10) Hospice services, subject to the conditions in 405 IAC 5-34-3.

(11) Diagnostic services, including genetic testing.

(*Office of the Secretary of Family and Social Services; 405 IAC 5-5-1; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3308; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2379; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 22, 2005 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 22, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed amendments concerning reimbursement for genetic testing of breast and ovarian cancer and diagnostic services that are performed out-of-state.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

E. Mitchell Roob Jr.

Secretary

Office of the Secretary of Family and Social Services

TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT

Proposed Rule

LSA Document #05-225

DIGEST

Adds 646 IAC 3-4-12 because Senate Enrolled Act 612 voided 646 IAC 3-4-10 and requires the Department to adopt rules explaining how transfers of a portion of a trade or business are affected by this new law enacted to prevent unemployment insurance tax rate manipulation and requires the Department to establish guidelines to divide, when a transfer of a portion of a trade or business occurs, the experience account balance of a predecessor employer, the payroll of a predecessor employer, and the benefits chargeable to a predecessor employer's original experience account after the date of transfer between the predecessor employer and the successor employer. Amends 646 IAC 3-1-7 to reflect changes created by Senate Enrolled Act 612 regarding unemployment insurance tax rate manipulation. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

These changes will not add any additional costs to small businesses.

646 IAC 3-1-7
646 IAC 3-4-12

SECTION 1. 646 IAC 3-1-7 IS AMENDED TO READ AS FOLLOWS:

646 IAC 3-1-7 Successor employers; notice; transfer of experience account; liability for contributions

Authority: IC 22-4-18-1
Affected: IC 22-4-7-1; IC 22-4-7-2; IC 22-4-9-1; IC 22-4-10-6; IC 22-4-11-2; IC 22-4-11-3; IC 22-4-11.5; IC 22-4.1

Sec. 7. (a) The **director department** is authorized to determine when there has been an acquisition **or transfer** of the organization, trade, or business of an employer within the meaning of IC 22-4-7-2(a), ~~through~~ IC 22-4-7-2(b), ~~and~~ IC 22-4-10-6, **and IC 22-4-11.5**. Each employer who disposes of all or a part of its organization, trade, or business and the **successor acquirer** to that business, or part of that business, shall **immediately within the time prescribed in IC 22-4-10-6(b)**, report the transaction to the department and execute prescribed forms. **Except as provided by IC 22-4-11.5**, if the **director department** finds that there has been an acquisition **or transfer** under IC 22-4-7-2(a) by an employing unit not previously an employer within the meaning of IC 22-4-7-1 or IC 22-4-7-2, the:

- (1) disposing employer's entire experience account shall be transferred to the **successor acquirer**; and ~~the successor~~
- (2) **acquirer** shall immediately assume the position of the disposing employer with respect to the resources and liabilities reflected by the experience account as if no change had occurred.

If the **director department** finds that, within the meaning of IC 22-4-7-2(a), there had been an acquisition **or transfer** from an employer by an employer already subject to contribution, the disposing employer's experience account shall be transferred to the **successor acquirer**, but the **successor acquirer** shall retain its rate of contribution **for the remainder of the calendar year, except as provided by IC 22-4-11.5**. Provided, however, should no reports be received by the ~~director, department~~, then, at the expiration of thirty (30) days from the date of the acquisition **or transfer**, transfer may be made by the **director department** upon ~~his~~ **its own motion: initiative**. Whenever a total transfer is made, the status of the **original disposing** employer as an employer under IC 22-4 is terminated unless and until ~~such~~ the employer subsequently qualifies under IC 22-4-7-1 or IC 22-4-7-2.

(b) The acquiring employer, if not previously a ~~subject~~ **an employer within the meaning of IC 22-4-7-1 or IC 22-4-7-2**, shall, as of the date of acquisition **or transfer**, become liable for contributions with respect to all wages paid to his **or her** own employees during the entire calendar year. **Except as provided by IC 22-4-11.5**, if the acquiring employer:

- (1) becomes liable by reason of the acquisition **or transfer**;

and
(2) acquires all or part of the ~~predecessor's~~ **disposer's** experience account; ~~it~~

the acquiring employer shall, beginning with the first day of the calendar quarter in which the acquisition occurs, pay contributions at the rate applicable to the ~~predecessor~~ **disposing** employer at the time of the acquisition **or transfer** until its rate is computed for the next succeeding calendar year. Provided, however, that if the ~~successor~~ **acquiring** employer simultaneously acquires all or part of the experience balance of two (2) or more employers, its rate, beginning with the first day of the calendar quarter in which the acquisitions **or transfers** occurred, shall be the highest rate applicable to the experience accounts totally acquired **except as provided by IC 22-4-11.5**. Provided further, that if the ~~successor~~ **acquiring** employer had any employment ~~prior to~~ **before** the date of acquisition upon which contributions were owed under IC 22-4-9-1, its rate of contribution from the first of such year to the first day of the calendar quarter in which the acquisition occurred shall be two and seven-tenths percent (2.7%). If ~~such~~ the employer becomes liable by reason of an acquisition within the meaning of IC 22-4-7-2(b), ~~and does not acquire a part of the~~ **it must receive a portion of the disposing employer's** experience account of the ~~disposer, its rate shall be two and seven-tenths percent (2.7%) until a higher or lower rate is established under IC 22-4-11-2 and IC 22-4-11-3 in accordance with IC 22-4-11.5. If the acquiring employer was an employer at the time of the acquisition **or transfer**, the contribution rate assigned to it for that year shall continue throughout the remainder of the year **except as provided by IC 22-4-11.5**.~~

(c) Where there is no transfer of an account to a **successor an acquirer** and an employer has legally terminated its liability, then the employer's account shall be ~~terminated~~ **inactivated** and closed. Provided, however, that if that employer again becomes subject to the law within four (4) years of the date of ~~termination~~ **inactivation** of its account, then it shall:

- (1) resume its former position with respect to the resources and liabilities of the experience account; and ~~staff~~
- (2) be entitled to an experience rate computation under IC 22-4-11-2 and IC 22-4-11-3 if benefits have been payable from and chargeable to its experience account throughout the thirty-six (36) months immediately preceding the computation date.

(d) ~~Domestic employment, as defined in IC 22-4-7-2(i) will not be considered in the transfer of an experience account under IC 22-4-7-2(a) or IC 22-4-7-2(b). The disposer will retain the domestic portion of its experience account and will be assigned a new reporting number. (Department of Workforce Development; Rule 11; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 871; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 32; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 37; filed Jun 15, 1955, 9:00 a.m.: Rules and Regs. 1956, p. 211; filed Sep 12, 1956, 12:30 p.m.: Rules and Regs.~~

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1957, p. 110; filed Sep 25, 1969, 2:50 p.m.: *Rules and Regs.* 1970, p. 74; filed Aug 19, 1971, 3:30 p.m.: *Rules and Regs.* 1972, p. 31; filed Jul 13, 1972, 11:00 a.m.: *Rules and Regs.* 1973, p. 155; filed Nov 25, 1975, 3:05 p.m.: *Rules and Regs.* 1976, p. 103; filed Mar 28, 1978, 8:57 a.m.: *Rules and Regs.* 1979, p. 60; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1910; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2596; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-7) to the Department of Workforce Development (646 IAC 3-1-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 2. 646 IAC 3-4-12 IS ADDED TO READ AS FOLLOWS:

646 IAC 3-4-12 Transfer of all or part of business; division of experience balance

Authority: IC 22-4-18-1

Affected: IC 22-4-7-2; IC 22-4-10-6; IC 22-4-11.5; IC 22-4-32; IC 22-4.1

Sec. 10. (a) Each employer who disposes of or transfers all or part of his or her organization, trade, or business under any one (1) or combination of:

- (1) IC 22-4-7-2(a);
- (2) IC 22-4-7-2(b); or
- (3) IC 22-4-11.5;

shall immediately notify the department in writing.

(b) The disposing employer and the acquiring employer shall thereafter promptly submit to the department, in writing, information requested by the department, including the completion and filing of prescribed forms, where necessary, as the department may request relating to the disposition and acquisition.

(c) Based upon information obtained under subsection (b) and any other relevant information in the department's records, the department shall do the following:

- (1) Determine whether the disposition, acquisition, or transfer comes within the meaning of any one (1) or combination of the following:
 - (A) IC 22-4-7-2(a).
 - (B) IC 22-4-7-2(b).
 - (C) IC 22-4-11.5.
- (2) Notify the disposing employer and the acquiring employer of its determination.

(d) In each case where the department determines there has been an acquisition under IC 22-4-7-2(a), the acquiring employer shall assume the position of the disposing employer with respect to all the resources and liabilities of the disposer's experience account except as provided under 646 IAC 3-1-7.

(e) In each case where the department determines there

has been an acquisition under IC 22-4-7-2(b), the acquiring employer shall assume a portion of the experience account of the disposer. The acquiring employer and disposing employer shall submit to the department notification of the acquisition on prescribed forms for the partial transfer properly containing all requested information within the time period specified in IC 22-4-10-6(b). The department shall notify the acquiring employer and the disposing employer of its determination.

(f) In each case where the department determines that there has been a transfer under IC 22-4-11.5, the department shall do the following:

- (1) Evaluate whether there has been a violation under IC 22-4-11.5.
- (2) Notify the acquiring employer and the disposing employer of its determination.

(g) When the notification of acquisition, disposition, or transfer is received or upon the department's own initiative, the experience balance and other factors shall be divided in the following manner:

- (1) The department shall determine ratios (hereinafter called the "transfer percentages"). These transfer percentages shall be obtained by determining the ratios that the wages paid in connection with the portion of the business retained and the wages paid in connection with the portion of the business disposed of or transferred are to the total wages paid by the disposer during either of the following periods:
 - (A) The three (3) full fiscal years ending on June 30 immediately preceding the disposition date and the period from the end of these three (3) periods to the date of disposition.
 - (B) Such lesser period as the disposer has been an employer.
- (2) In all cases of a partial transfer, the disposer will be reassigned a new experience account. If the acquiring employer was not an employer before the acquisition or transfer, it shall be assigned an experience account based on the portion of the experience account transferred from the disposing employer; however, if the acquirer was an employer immediately before the acquisition date, it will retain its original experience account, in addition to the portion of the disposing employer's experience account that the acquiring employer is required to take from the disposing employer, in accordance with IC 22-4-7-2(b) or IC 22-4-11.5, or both.
- (3) The transfer percentages shall then be applied to the following:

(A) The wages paid by the disposing employer in either of the following:

- (i) Each of the last three (3) twelve (12) month periods ending June 30 before the date of the disposition or transfer.

Copies of these rules are now on file at 10 North Senate Avenue, Room SE202 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Ron Stiver
Commissioner
Department of Workforce Development

- (ii) Such lesser period as the disposer has been an employer.
- (B) The wages paid by the disposing employer after the:
 - (i) end of three (3) twelve (12) month periods; and
 - (ii) before the date of disposition or transfer.
- (C) The credit or deficit balance in the disposing employer's experience account as of the disposition date.
- (4) Wages paid and the disposing employer's experience balance shall be:
 - (A) transferred from the original experience account of the disposing employer; and
 - (B) allocated to the separate experience accounts of the:
 - (i) disposing employer; and
 - (ii) acquiring employer;
 in accordance with the respective transfer percentage of each.
- (5) All benefits chargeable to the disposer's original experience account subsequent to the disposition date shall be charged to the disposer's reassigned experience account and the acquirer's experience account in accordance with the transfer percentages. Except as provided by IC 22-4-11.5, annual rates of contribution for the disposing employer and the acquiring employer shall be based on the adjusted employment experience of each employer as of the regular computation date for subsequent years.
- (6) Any written determination made by the department shall become conclusive and binding upon both the disposing and acquiring employer unless within fifteen (15) days, commencing with the day following the day upon which the initial determination is mailed to the employing unit, one (1) or both of the employers file a protest in writing to the determination, setting forth the grounds and reasons. The protest of the employer shall be heard and determined under IC 22-4-32-1 through IC 22-4-32-15. In any case, both the disposing employer and the acquiring employer shall be:
 - (A) made parties to the hearing before the liability administrative law judge; and
 - (B) entitled to receive copies of all pleadings and the decision.

(Department of Workforce Development; 646 IAC 3-4-12)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 29, 2005 at 8:00 a.m., at the Department of Workforce Development, 10 North Senate Avenue, Room 301A, Indianapolis, Indiana the Department of Workforce Development will hold a public hearing on proposed amendments to 646 IAC 3-1-7 and new rule 646 IAC 3-4-12, which are related to transfers of a portion of a trade or business for purposes of unemployment insurance and pursuant to Senate Enrolled Act 612.

These changes will not add any additional costs to small businesses.

TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT

Proposed Rule
LSA Document #05-228

DIGEST

Amends 646 IAC 2 to eliminate references to federal laws no longer in existence and to amend and, where appropriate, repeal rules that were previously used in the administration of federal programs that are no longer in operation. Repeals 646 IAC 2-1-2, 646 IAC 2-1-9, 646 IAC 2-1-15, 646 IAC 2-1-16, 646 IAC 2-1-17, 646 IAC 2-1-21, 646 IAC 2-1-23, 646 IAC 2-3, 646 IAC 2-4, 646 IAC 2-5-1, and 646 IAC 2-7-2. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

These changes will not add any additional costs to small businesses.

646 IAC 2-1-2	646 IAC 2-1-27
646 IAC 2-1-4	646 IAC 2-2-2
646 IAC 2-1-9	646 IAC 2-3
646 IAC 2-1-13	646 IAC 2-4
646 IAC 2-1-15	646 IAC 2-5-1
646 IAC 2-1-16	646 IAC 2-5-2
646 IAC 2-1-17	646 IAC 2-6-1
646 IAC 2-1-19	646 IAC 2-7-2
646 IAC 2-1-20	646 IAC 2-7-3
646 IAC 2-1-21	646 IAC 2-7-4
646 IAC 2-1-23	646 IAC 2-8-1
646 IAC 2-1-24	646 IAC 2-9-1

SECTION 1. 646 IAC 2-1-4 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-1-4 "Chief local elected official" defined

Authority: IC 22-4-18-1
Affected: IC 22-4.5

Sec. 4. "Chief local elected official" means **the mayor or the president of the county commissioners** in the following:

- (1) The mayor or the president of the county commissioners in Any **service regional workforce** area where there is only one (1) unit of general local government, a city, or a county.

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(2) ~~The mayor or president of the county commissioners in~~ Any service area where there are two (2) or more ~~such~~ units of general local government, a city, or a county.

(Department of Workforce Development; 646 IAC 2-1-4; filed May 26, 1992, 5:00 p.m.: 15 IR 2223; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-4) to the Department of Workforce Development (646 IAC 2-1-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 2. 646 IAC 2-1-13 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-1-13 “Grant recipient” defined

Authority: IC 22-4-18-1

Affected: IC 22-4.5

Sec. 13. “Grant recipient” means the entity selected by the ~~private industry council~~ **regional workforce board** in agreement with the chief elected official of a designated ~~service regional workforce~~ area to receive, distribute, and account for **the following**:

- (1) All funds received from the department. ~~and for~~
- (2) Any other funds for which the ~~private industry council~~ **regional workforce board** may have local oversight responsibility.

(Department of Workforce Development; 646 IAC 2-1-13; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-13) to the Department of Workforce Development (646 IAC 2-1-13) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 3. 646 IAC 2-1-19 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-1-19 “Labor exchange” defined

Authority: IC 22-4-18-1

Affected: IC 22-4.5

Sec. 19. “Labor exchange” means the following:

- (1) Those Wagner-Peyser services identified in subdivision
 - (2) administered by the department and provided solely by the state merit employees to the full extent that funds are appropriated under the Wagner-Peyser Act, with no duplication of services by other entities. Labor exchange services may be provided by nondepartmental employees using non-Wagner-Peyser resources if Wagner-Peyser funds are insufficient to permit departmental employees to provide all the necessary and required services.
- (2) Wagner-Peyser services include the following:
- (A) Assessment.
 - (B) Testing, including state merit testing.
 - (C) Employment counseling.
 - (D) Job referral, including job service matching and resume system.

(E) Job placement, including job service matching and resume system.

(F) Job development.

(G) Referral to job vocational education.

(H) Dissemination of labor market information.

(I) Meeting the unemployment insurance work test.

(J) Providing qualified job applicants.

(K) Mass recruitment.

(L) Job analysis.

(M) Statewide recruitment for hard to fill openings.

(N) Targeted job tax credit (TJTC) vouchering.

(O) Affirmative action and equal employment opportunity planning.

(P) Interstate job clearance.

(3) Nothing in this section prohibits nondepartmental employees from providing those services defined in ~~JPPA~~, **the Workforce Investment Act**, IMPACT, ~~JOBS~~, SINGLE PARENTHOMEMAKER, or other appropriate federal, state, local, and private revenue source programs.

(Department of Workforce Development; 646 IAC 2-1-19; filed May 26, 1992, 5:00 p.m.: 15 IR 2225; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-19) to the Department of Workforce Development (646 IAC 2-1-19) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 4. 646 IAC 2-1-20 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-1-20 “Nondepartmental employees” defined

Authority: IC 22-4-18-1

Affected: IC 22-4.5

Sec. 20. “Nondepartmental employees” means employees under local merit-based personnel systems employed by **any of the following**:

(1) Grant recipients. ~~administrative entities or~~

(2) **Regional workforce boards.**

(3) Other entities contracting with the department.

(Department of Workforce Development; 646 IAC 2-1-20; filed May 26, 1992, 5:00 p.m.: 15 IR 2225; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-20) to the Department of Workforce Development (646 IAC 2-1-20) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 5. 646 IAC 2-1-24 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-1-24 “Regional workforce area” defined

Authority: IC 22-4-18-1

Affected: IC 22-4.5

Sec. 24. “~~Service~~ **“Regional workforce area”** means an area of the state comprised of one (1) or more units of general local government that sets out the following:

(1) Promotes effective delivery of employment and training services including services for economically disadvantaged, displaced workers, and other targeted groups as designated by federal and state assistance programs.

~~(2) Is consistent with labor market areas or standard metropolitan statistical areas. This subdivision shall not be construed to require designation of an entire labor market area and is consistent with areas in which related services are provided under other state or federal programs.~~

~~(3) (2) Shares common boundaries for the delivery of related services administered by the department.~~

~~(4) Has the same meaning as service delivery areas (SDA) under Title H of the JFPA and substate area (SDA) under Title III of JFPA.~~

(Department of Workforce Development; 646 IAC 2-1-24; filed May 26, 1992, 5:00 p.m.: 15 IR 2225; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-24) to the Department of Workforce Development (646 IAC 2-1-24) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 6. 646 IAC 2-1-27 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-1-27 “Employment and training office” or “employment and training center” defined

Authority: IC 22-4-18-1
Affected: IC 22-4-5

Sec. 27. “Employment and training office” or “**employment and training center**” means ~~the following:~~ ~~(1)~~ that much of any local facility in a ~~service~~ **regional workforce** area and so designated in the local plan of service, for the express purpose of providing the department’s:

- (1) employment and training program;
- (2) veterans services programs; and
- (3) unemployment insurance program;

where designated by the department.

~~(2) “Employment and training center” means the same as subdivision (1).~~

(Department of Workforce Development; 646 IAC 2-1-27; filed May 26, 1992, 5:00 p.m.: 15 IR 2226; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-27) to the Department of Workforce Development (646 IAC 2-1-27) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 7. 646 IAC 2-2-2 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-2-2 Responsibilities

Authority: IC 22-4-18-1
Affected: IC 4-15-1; IC 22-4-18-4; IC 22-4-5

Sec. 2. (a) Under IC 22-4-18-4, there are established in the

department two (2) coordinate sections. One shall administer employment and training services, and the other shall administer unemployment insurance services. Each section shall be responsible for the discharge of its distinctive functions under the direction of the executive director.

(b) Responsibilities of the department shall be as follows:

(1) The department:

(A) shall have all of the powers and duties as described in IC 22-4-18-1; ~~and IC 22-4-18-5.~~

~~(2) The department (B) may create and issue policy and operational directives necessary for the administration of:~~

(i) the unemployment insurance services; and

(ii) all other employment and training services;

administered directly by the department or contracted through ~~private industry councils;~~ **regional workforce boards**, grant recipients, or other entities directly contracting with the department; ~~The department~~

(C) will determine compliance in the instance of conflicting policy; ~~The department and~~

(D) will assume responsibility in instances where compliance with policy issued by the department conflicts and causes noncompliance with policy or directives issued by entities external to the department.

~~(3) (2) Grant recipients, administrative entities; regional workforce boards, and any other entities contracting directly with the department may be subject to corrective actions for failure to meet performance standards established by the department.~~

~~(4) (3) The corrective action may range from technical assistance to penalties for noncompliance with performance standards as defined by department policy and federal and state statutes and rules.~~

~~(5) (4) The department shall do the following:~~

(A) Adhere to the:

(i) policies;

(ii) principles;

(iii) procedures;

(iv) terms; and

(v) conditions;

of the state personnel system as contained in IC 4-15-1-1 et seq. for department personnel.

~~(6) The department shall (B) Require:~~

(i) each grant recipient; ~~administrative entity;~~

(ii) **each regional workforce board;** and

(iii) other entities contracting directly with the department;

to assure that their personnel system adheres to the merit-based principles as defined by the U.S. Office of Personnel Management.

(c) Planning functions of the department shall be as follows:

(1) The department shall be responsible for the **following:**

(A) Development of a state plan for the employment and training system that includes coordination between employ-

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ment and training services and unemployment insurance services. This plan shall serve to meet all federal and state plan requirements for all department administered resources.

~~(2)~~ **(2)** The department shall be responsible for **(B)** Implementing the state plan for the employment and training system through the following:

~~(A)~~ **(i)** Issuance of, and the establishment of, standards of performance.

~~(B)~~ **(ii)** Reviewing and approving locally submitted plans of service including those provisions ~~which that~~ involve state merit employees.

~~(3)~~ **(2)** The department shall administer its resources through the employment and training system. Preferential consideration for the delivery of employment and training services shall be given to entities identified by ~~private industry councils and chief local~~ elected officials of each ~~service regional workforce~~ area unless the department determines that alternative entities would be more effective to achieve the state's goals as described in the state's employment and training plan. Contracts for the provision of Wagner-Peyser labor exchange services shall include requirements ~~which that~~ ensure department employees are:

(A) used exclusively in the provision of ~~such the~~ services; and ~~that department employees are~~

(B) not displaced as a result of the contracts.

This subdivision shall not be interpreted to mean that the supplementation of labor exchange services through resources other than Wagner-Peyser shall be limited to department employees in the event Wagner-Peyser funds are inadequate to provide the necessary and required labor exchange services. If Wagner-Peyser funds are reduced below current levels, the department will do all that is reasonably possible to retain current local service delivery levels, and full utilization of state merit employees, from whatever funding sources are available.

~~(4)~~ **(4)** Goals and objectives for the state plan shall be proposed by the Indiana workforce development coordinating council no later than the December before the beginning of the two (2) year planning cycle. The goals and objectives shall be consistent with the mission of the state's long range plan for vocational and technical education.

~~(5)~~ **(3)** The draft plan, or its modification, shall be submitted for review and comment to the commission for vocational and technical education and other appropriate entities as determined by the department and before the plan is recommended for approval to the governor. ~~by the Indiana workforce development coordinating council.~~ The department shall present the plan to the general public for comment no later than the month of April ~~prior to before~~ the start of the two (2) year planning cycle.

~~(6)~~ **(4)** At a minimum, the state plan for employment and training services shall provide the following:

(A) Experience of the employment and training system in

the previous two (2) year planning cycle.

(B) The goals and objectives for the next two (2) year planning cycle.

(C) Priorities and direction for use of resources.

~~(7)~~ **(5)** The department may coordinate with the Indiana department of commerce to develop a joint plan for the coordination of resources under the direction of both departments that results in employment opportunities for all citizens of the state with special emphasis for:

(A) economically disadvantaged individuals;

(B) displaced workers; and

(C) others with substantial barriers to employment;

as well as meets the hiring needs of the state's employers with special emphasis on the recruitment, placement, and training needs of indigenous, small scale employers.

(Department of Workforce Development; 646 IAC 2-2-2; filed May 26, 1992, 5:00 p.m.: 15 IR 2227; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-2-2) to the Department of Workforce Development (646 IAC 2-2-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 8. 646 IAC 2-5-2 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-5-2 Service provider selection

Authority: IC 22-4-18-1

Affected: IC 22-4.5

Sec. 2. (a) The department may issue policies for the selection of service providers or program services distinct from the procurement policies applicable to vendors of:

- (1) supplies;
- (2) equipment;
- (3) construction; and
- (4) services;

consistent with subsection (d).

(b) These policies shall apply to:

- (1) the department;
- (2) grant recipients; ~~administrative entities; and~~
- (3) **regional workforce boards;**
- (4) other entities directly contracting with the department, contracted by the department for the provisions of employment and training services; and
- (5) all subcontractors of those entities;

who provide employment and training services in an assistance relationship for programs for which the department has administrative responsibility.

(c) The department shall require that grant recipients and other entities directly contracting with the department have written policies and procedures to assure that primary consideration in selecting agencies or organizations to deliver services within a **service regional workforce** area shall be based upon

the effectiveness of the agency or organization in delivering comparable or related services based on **the following**:

- (1) Demonstrated performance goals.
- (2) Costs or price.
- (3) Quality of training. ~~and~~
- (4) Characteristics of participants.

Organizations or agencies so selected must be entities ~~which~~ **that** are legally authorized to enter into contractual relationships.

(d) The department shall require grant recipients, and other entities directly contracting with the department for funds other than Wagner-Peyser, to have written procurement policies ~~which~~ **that** include prohibition against the duplication of facilities or services available in the area (with or without reimbursement) from federal, state, or local services, unless it is demonstrated that the alternate services or facilities would be more:

- (1) effective; or ~~more~~
- (2) likely to achieve the service area's performance goals.

(Department of Workforce Development; 646 IAC 2-5-2; filed May 26, 1992, 5:00 p.m.: 15 IR 2231; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-5-2) to the Department of Workforce Development (646 IAC 2-5-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 9. 646 IAC 2-6-1 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-6-1 Reports and record keeping

Authority: IC 22-4-18-1
Affected: IC 22-4.5

Sec. 1. (a) The department shall be required to keep records that are sufficient to permit the **following**:

- (1) Preparation of reports required by federal and state funding sources. ~~and to permit the~~
- (2) Tracing of funds to a level of expenditure adequate to ensure that funds have not been spent unlawfully.

(b) Each grant recipient shall make reports in the form and manner determined by the executive director to enable the department to **do the following**:

- (1) Assure adherence to fiscal requirements.
- (2) Determine program effectiveness and integrity.
- (3) Conform to requirements of the ~~JFPA~~ **following**:
 - (A) **The Workforce Investment Act.**
 - (B) **The Wagner-Peyser Act. ~~and~~**
 - (C) **Corresponding regulations. ~~and~~**
- (4) Fulfill other requirements of programs ~~which~~ **that** it administers.

(c) Each grant recipient, and other entities directly contracting with the department, shall **do the following**:

- (1) Keep fiscal programmatic and participant records that are

sufficient to permit **the following**:

- (A) Preparation of reports required by the department. ~~and the~~
- (B) Tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

~~(d) Each grant recipient, and other entities directly contracting with the department, shall;~~

(2) As specified by the director:

- (A) maintain ~~such the~~ records; and
- (B) submit ~~such the~~ reports in ~~such the~~ form and containing ~~such the~~ information;

as the department requires regarding the performance of its programs.

(Department of Workforce Development; 646 IAC 2-6-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2232; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-6-1) to the Department of Workforce Development (646 IAC 2-6-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 10. 646 IAC 2-7-3 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-7-3 Programmatic incentives or remedies

Authority: IC 22-4-18-1
Affected: IC 22-4.5

Sec. 3. (a) The department shall determine applicable remedies for noncompliance with the law, regulations, and department policy.

(b) Remedies may include, but are not limited to, the following:

- (1) Withholding of funds.
- (2) Technical assistance as part of corrective action.
- (3) Reorganization of the ~~private industry council~~ **workforce investment board or regional workforce board, or both.**
- (4) Redesignation of the ~~service~~ **regional workforce** area.

(c) The department shall establish an incentive system based on performance measures for the purpose of:

- (1) oversight;
- (2) evaluation; and
- (3) monitoring the performance;

of an integrated employment and training system. *(Department of Workforce Development; 646 IAC 2-7-3; filed May 26, 1992, 5:00 p.m.: 15 IR 2233; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-7-3) to the Department of Workforce Development (646 IAC 2-7-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

SECTION 11. 646 IAC 2-7-4 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-7-4 Oversight

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Authority: IC 22-4-18-1
Affected: IC 22-4.5

Sec. 4. (a) The department shall **do the following**:

(1) Perform evaluation, monitoring, and audits at intervals and depth of scope in such a manner as determined by the department and consistent with requirements of the Indiana state board of accounts.

~~(b) The department shall~~ (2) Determine and communicate the oversight responsibilities and activities of the **following**:

(A) Grant recipient, ~~administrative entity~~, and

(B) **Regional workforce boards.**

(C) Other entities directly contracting with the department.

~~(c)~~ (b) The department may periodically:

(1) review;

(2) rescind; ~~and/or or~~

(3) reissue;

policy as it deems necessary.

~~(d)~~ (c) The department shall **do the following**:

(1) Evaluate its program according to applicable evaluation criteria established by the Indiana commission on vocational and technical education. ~~and shall~~

(2) Submit findings to the commission.

~~(e) As used in this section, the "department's program" means the comprehensive service areawide program administered by the department's grant recipients. The department shall submit findings regarding its sixteen (16) grant recipients to the commission annually. The department shall not evaluate eligible recipients as defined by the Carl Perkins Act.~~

~~(f)~~ (d) The department shall not **do the following**:

(1) Deny funding to grant recipients based on any effectiveness criteria ~~which that~~ is not a requirement of any act or rule pertinent to the department's funding sources.

~~(g) The department shall not~~ (2) Utilize any effectiveness criteria ~~which that~~ are measurements of process rather than outcomes.

~~(h) The department shall not~~ (3) Use funds from: ~~JFPA~~;

(A) the Wagner-Peyser Act;

(B) Trade Adjustment Assistance;

(C) unemployment insurance; or

(D) any other current funding source;

for the purpose of carrying out any ~~such~~ evaluations ~~which that~~ are beyond the requirements of the department of labor for measuring program effectiveness.

(Department of Workforce Development; 646 IAC 2-7-4; filed May 26, 1992, 5:00 p.m.: 15 IR 2233; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-7-4) to the Department of Workforce Development (646 IAC 2-7-4) by

P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 12. 646 IAC 2-8-1 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-8-1 Logo

Authority: IC 22-4-18-1

Affected: IC 22-4.5

Sec. 1. (a) The department shall designate an official logo, and employment and training offices shall incorporate the logo in signage and letterheads.

(b) This section shall not preclude a ~~service regional workforce~~ area from utilizing any other logo in addition to that designated by the department. *(Department of Workforce Development; 646 IAC 2-8-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2233; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-8-1) to the Department of Workforce Development (646 IAC 2-8-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

SECTION 13. 646 IAC 2-9-1 IS AMENDED TO READ AS FOLLOWS:

646 IAC 2-9-1 Establishment of grievance procedures

Authority: IC 22-4-18-1

Affected: IC 22-4.5

Sec. 1. (a) The department shall:

(1) formulate and maintain a state level grievance procedure; ~~and shall~~

(2) ensure the establishment of procedures at the ~~service regional workforce~~ area level;

for any complaint involving violation of rules and regulations of state and federal programs for which the department has responsibility.

(b) Each grant recipient, ~~administrative entity~~, **regional workforce board**, or other entities directly contracting with the department, shall establish and maintain a grievance procedure for grievances or complaints about its programs and activities from participants, subgrantees, subcontractors, and other interested persons.

(c) Nothing in this section precludes or supersedes access to grievance procedures under state or local merit personnel policies and procedures.

~~(d) At a minimum, a grievance procedure shall include those provisions identified in the JFPA and department policy.~~ *(Department of Workforce Development; 646 IAC 2-9-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2233; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-9-1) to the*

Department of Workforce Development (646 IAC 2-9-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

SECTION 14. THE FOLLOWING ARE REPEALED: 646 IAC 2-1-2; 646 IAC 2-1-9; 646 IAC 2-1-15; 646 IAC 2-1-16; 646 IAC 2-1-17; 646 IAC 2-1-21; 646 IAC 2-1-23; 646 IAC 2-3; 646 IAC 2-4; 646 IAC 2-5-1; 646 IAC 2-7-2.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 29, 2005 at 8:30 a.m., at the Department of Workforce Development, 10 North Senate Avenue, Room 301A, Indianapolis, Indiana the Department of Workforce Development will hold a public hearing on proposed amendments and repeal of rules that were previously used in the administration of federal programs that are no longer in operation.

These changes will not add any additional costs to small businesses.

Copies of these rules are now on file at 10 North Senate Avenue, Room SE202 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Ron Stiver
Commissioner
Department of Workforce Development

TITLE 760 DEPARTMENT OF INSURANCE

Proposed Rule
LSA Document #05-134
DIGEST

Adds 760 IAC 1-72 to set standards for determining whether a purchase or exchange of an annuity is suitable for a senior consumer and to otherwise implement IC 27-4-9. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses
Estimated Number of Small Businesses Subject to This Rule:

The Department of Insurance is directed by IC 27-4-9-4 to adopt rules to establish a method for making determinations as to whether a purchase or an exchange of an annuity is unsuitable for a senior consumer. The Department expects small businesses licensed as insurance producers selling annuities will be affected by this rule. There are 3,457 resident insurance agencies authorized to sell life products. It is unknown how many of these agencies fall into the definition of small business. It is believed that most insurance agencies are small businesses.

Estimated Average Annual Administrative Costs that Small Businesses will Incur:

The proposed rule requires the producers to maintain written procedures to determine when sales or exchanges of annuities are unsuitable for a senior consumer and for the producer to periodically audit their activities. The audit is not required to be performed by an independent auditor nor is it required to be annual. Annuity sales to seniors will not be an agent's entire book of business. The annual record keeping and auditing expense should be an average of \$1,000 or less.

Estimated Total Annual Economic Impact on Small Businesses:

The Department is directed by statute to promulgate a rule to set standards for the sale of or exchange of annuities for senior consumers. The proposed rule will provide savings to consumers and also to producers and insurance companies by avoiding inappropriate sales. In the event that a senior makes an inappropriate decision on the purchase or exchange of an annuity insurers and producers face complaints from family members and/or the Department of Insurance that many times result if the insurer or producer providing restitution to the consumer. The provisions of this rule should avoid these instances and thus have a positive economic benefit.

Regulatory Flexibility Analysis of Alternative Methods:

The National Association of Insurance Commissioners has developed a model law on this issue that has been adopted by nine (9) states and expected to be implemented in more jurisdictions. The Department reviewed the model law and consulted with the insurance industry. It was determined that adopting the provision of the model law would be cost efficient for the insurance industry. If Indiana were to develop standards different than those adopted in other states, then compliance costs would be increased for those doing business in Indiana if they had to develop Indiana compliance tools. Under the proposed rule Indiana's standards will be consistent with other states. This will increase cost sharing between insurance companies and insurance producers. Insurance companies that have already created the guidelines will provide them to their producers thus relieving the producers, who are generally small businesses, from the cost of compliance. As a significant portion of the insurance agencies are small businesses, it would not be effective to exempt small business from these requirements or to have different standards for small businesses. In addition, the statute directs standards to be implemented for all insurance companies and producers.

760 IAC 1-72

SECTION 1. 760 IAC 1-72 IS ADDED TO READ AS FOLLOWS:

Rule 72. Senior Protections in Annuity Transactions

760 IAC 1-72-1 Purpose and scope

Authority: IC 27-4-9-4
Affected: IC 27-1-15.6-12; IC 27-4-1-4; IC 27-4-9

Sec. 1. (a) The purpose of this rule is to set forth stan-

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dards and procedures for recommendations to senior consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of senior consumers at the time of the transaction are appropriately addressed.

(b) This rule shall apply to any recommendation to purchase or exchange an annuity made to a senior consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended.

(c) Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation. (*Department of Insurance; 760 IAC 1-72-1*)

760 IAC 1-72-2 Exemptions

Authority: IC 27-4-9-4

Affected: IC 27-1-15.6-12; IC 27-4-1-4; IC 27-4-9

Sec. 2. Unless otherwise specifically included, this regulation shall not apply to recommendations involving the following:

(1) Direct response solicitations where there is no recommendation based on information collected from the senior consumer under this regulation.

(2) Contracts used to fund any of the following:

(A) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA).

(B) A plan described by Section 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer.

(C) A government or church plan defined in Section 414 of the IRC.

(D) A government or church welfare benefit plan.

(E) A deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC.

(F) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(G) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.

(H) Formal prepaid funeral contracts.

(*Department of Insurance; 760 IAC 1-72-2*)

760 IAC 1-72-3 Definitions

Authority: IC 27-4-9-4

Affected: IC 27-1-15.6-12; IC 27-4-1-4; IC 27-4-9

Sec. 3. The following definitions apply throughout this rule:

(1) “Annuity” means a fixed annuity or variable annuity

that is individually solicited, whether the product is classified as an individual or group annuity.

(2) “Insurance producer” means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities.

(3) “Insurer” means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

(4) “Recommendation” means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual senior consumer that results in a purchase or exchange of an annuity in accordance with that advice.

(5) “Senior consumer” means a person at least sixty-five (65) years of age. In the event of a joint purchase by more than one (1) party, the purchaser will be considered to be a senior consumer if any of the parties is at least sixty-five (65) years of age.

(*Department of Insurance; 760 IAC 1-72-3*)

760 IAC 1-72-4 Duties of insurers and of insurance producers

Authority: IC 27-4-9-4

Affected: IC 27-1-15.6-12; IC 27-4-1-4; IC 27-4-9

Sec. 4. (a) In recommending to a senior consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the senior consumer on the basis of the facts disclosed by the senior consumer as to his or her:

- (1) investments and other insurance products; and
- (2) financial situation and needs.

(b) Before the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain information concerning the following:

(1) The senior consumer’s:

- (A) financial status;
- (B) tax status; and
- (C) investment objectives.

(2) Other information used or considered to be reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the senior consumer.

(c) Except as provided in subsection (b), neither an insurance producer, nor an insurer where no producer is involved, shall have any obligation to a senior consumer related to any recommendation if a consumer does any of the following:

(1) Refuses to provide relevant information requested by

the insurer or insurance producer.

(2) Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer.

(3) Fails to provide complete or accurate information.

(d) An insurer or insurance producer's recommendation shall be reasonable under all the circumstances actually known to the insurer or insurance producer at the time of the recommendation.

(e) An insurer shall:

(1) assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this rule is established and maintained by complying with the standards set forth in subsection (g); or

(2) establish and maintain such a system, including, but not limited to:

(A) maintaining written procedures; and

(B) conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this regulation.

(f) A general agent and independent agency shall:

(1) adopt a system established by an insurer to supervise recommendations of its insurance producers that is reasonably designed to achieve compliance with this rule; or

(2) establish and maintain such a system, including, but not limited to:

(A) maintaining written procedures; and

(B) conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this regulation.

(g) An insurer may contract with a third party, including a general agent or independent agency, to establish and maintain a system of supervision as required by subsection (e) with respect to insurance producers under contract with or employed by the third party. An insurer shall make reasonable inquiry to assure that the third party is performing the functions required by this section and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

(1) The insurer annually obtains a certification from a third party senior manager who has responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions.

(2) The insurer, based on reasonable selection criteria, periodically selects third parties for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to

conduct the review that are reasonable under the circumstances.

(h) An insurer that:

(1) contracts with a third party under subsection (g); and
 (2) complies with the requirements to supervise therein; shall have fulfilled its responsibilities under subsection (e).

(i) An insurer, general agent, or independent agency is not required to:

(1) review, or provide for review of, all insurance producer solicited transactions; or

(2) include in its system of supervision an insurance producer's recommendations to senior consumers of products other than the annuities offered by the insurer, general agent, or independent agency.

(j) A general agent or independent agency contracting with an insurer under subsection (g) shall promptly, when requested by the insurer give a:

(1) certification; or

(2) clear statement;

that it is unable to meet the certification criteria.

(k) No person may provide a certification under subsection (g) unless the person:

(1) is a senior manager with responsibility for the delegated functions; and

(2) has a reasonable basis for making the certification.

(l) Compliance with the National Association of Securities Dealers Conduct Rules pertaining to suitability shall satisfy the requirements under this section for the recommendation of variable annuities. However, nothing in this subsection shall limit the insurance commissioner's ability to enforce the provisions of this rule. (*Department of Insurance; 760 IAC 1-72-4*)

760 IAC 1-72-5 Mitigation of responsibility

Authority: IC 27-4-9-4

Affected: IC 27-1-15.6-12; IC 27-4-1-4; IC 27-4-9

Sec. 5. (a) The commissioner may order the following:

(1) An insurer to take reasonably appropriate corrective action for any senior consumer harmed by the insurer's, or by its insurance producer's, violation of this regulation.

(2) An insurance producer to take reasonably appropriate corrective action for any senior consumer harmed by the insurance producer's violation of this regulation.

(3) A general agency or independent agency that employs or contracts with an insurance producer to sell, or solicit the sale, of annuities to senior consumers to take reasonably appropriate corrective action for any senior consumer harmed by the insurance producer's violation of this regulation.

Proposed Rules

(b) Any applicable penalty for a violation of this rule may be reduced or eliminated, with the approval of the commissioner of the department of insurance, if corrective action for the senior consumer was taken promptly after a violation was discovered. (*Department of Insurance; 760 IAC 1-72-5*)

760 IAC 1-72-6 Record keeping

Authority: IC 27-4-9-4

Affected: IC 27-1-15.6-12; IC 27-4-1-4; IC 27-4-9

Sec. 6. (a) Insurers, managing general agents, independent agencies, and insurance producers shall:

(1) maintain; or
(2) be able to make available to the commissioner; records of the information collected from the senior consumer and other information used in making the recommendations that were the basis for insurance transactions for five (5) years after the insurance transaction is completed by the insurer. An insurer is permitted but shall not be required to maintain documentation on behalf of an insurance producer.

(b) Records required to be maintained by this rule may be maintained:

(1) in:
(A) paper;
(B) photographic;
(C) microprocess;
(D) magnetic;
(E) mechanical; or
(F) electronic;
media; or
(2) by any process that accurately reproduces the actual document.

(*Department of Insurance; 760 IAC 1-72-6*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 1, 2005 at 10:00 a.m., at the Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana the Department of Insurance will hold a public hearing on a proposed new rule to set standards for determining whether a purchase or exchange of an annuity is suitable for a senior consumer and to otherwise implement IC 27-4-9.

The Department is directed by statute to establish a method for making determinations as to whether the purchase or exchange of an annuity is unsuitable for a senior consumer. The proposed rule affects small employers that are insurance producers that sell annuity product. The proposed rule requires written procedures be developed and periodically audited. Typically, the insurance companies will provide the procedures leaving only the costs of audits to the small employer.

Copies of these rules are available on the Department of Insurance's Web site at www.state.in.us/idoi.

Copies of these rules are now on file at the Department of Insurance, 311 West Washington Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Jim Atterholt
Commissioner
Department of Insurance

TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS

Proposed Rule
LSA Document #05-137

DIGEST

Amends 820 IAC 5-1-20 concerning license application requirements for tanning facilities. Amends 820 IAC 6-1-2 and 820 IAC 6-1-5 concerning approved cosmetology educators. Adds 820 IAC 7 to establish fees for issuance or renewal of cosmetology school licenses, cosmetology instructor licenses, esthetics instructor licenses, electrology instructor licenses, cosmetology salon licenses, electrology salon licenses, esthetic salon licenses, manicurist salon licenses, cosmetologist licenses, master cosmetologist licenses, electrologist licenses, esthetician licenses, manicurist licenses, shampoo operator licenses, and tanning facility licenses; to establish fees for examinations for licensure to practice as a cosmetology instructor, esthetics instructor, electrology instructor, cosmetologist, master cosmetologist, electrologist, esthetician, manicurist, or shampoo operator; to establish fees for temporary permits; to establish fees for verification of license status to another state or jurisdiction; and to establish fees for issuance and renewal of approval as a cosmetology educator. Repeals 820 IAC 2-2-2. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

1. Estimated Number of Small Businesses Affected by Industry Sector Number:

NAICS 611511	Cosmetology Schools	79
NAICS 812112	Beauty Salons	8,204
NAICS 812113	Nail Salons	819
NAICS 812199	Other Personal Services (tanning salons)	1,621
NAICS 61143	Professional and Management Development Training (continuing education providers)	152

2. Estimated Administrative Costs:

The Indiana Professional Licensing Agency (IPLA) provides administrative services to 39 boards, commissions, and committees. These boards, commissions, and committees are charged with regulating a wide range of professionals and entities. The statutes include both standard setting and regulatory authority.

By statute, IPLA consolidates budget requests and is urged to consolidate and coordinate operations of the various boards, commissions, and committees where feasible in order to provide efficient and cost effective services. The boards, committees, and commissions are required to establish fees sufficient to cover the cost of operations, both direct and indirect. Fees are deposited into the general fund from which IPLA receives an appropriation.

It is difficult to determine whether fees equal the direct and indirect costs of each board, commission, and committee because IPLA is statutorily required to consolidate functions and budgets where possible. Renewal fee revenues fluctuate depending on the renewal cycle for a profession. In addition, fees are assessed for a variety of functions, and the amounts collected from year to year will vary.

The operations of the cosmetology board are labor intensive with both inspections of facilities and the administration of examinations. Examinations are administered by staff for approximately two weeks out of every month. The board is in the early stages of outsourcing the administration of the examinations. For many years, the maximum statutory examination fee was \$25, which is insufficient to generate enough revenue to utilize a professional examination service. The increase in cost will be more than compensated for by increased benefits including not only a savings of staff time but, also, in the ability to provide applicants with the ability to take the examinations at sites located around the state with almost immediate availability of results. The time for obtaining a license will be shortened.

The board consists of 7 members. The board meets at least 11 times per year in Indianapolis. The board is staffed by a board director, assistant board director, and five case managers. These individuals also staff two other boards. In addition, there are four cosmetology inspectors. The inspectors inspect cosmetology salons, esthetic salons, electrolysis salons, tanning salons, manicure salons, cosmetology schools, barber shops, and barber schools. In addition to regular inspections, they may at times assist in the investigation of consumer complaints. There is one supervisor of the investigators who is also responsible for inspections and investigations conducted by other IPLA boards and commissions.

The total number of licensees for all cosmetology board license types in 2004 was 59,918. There are approximately 79 cosmetology schools and 10,639 salons and tanning facilities, all of which must be routinely inspected. The time required for an inspection varies by the size of the facility and the services provided by the facility. There are currently 152 registered continuing education providers. Individual licensees must obtain 16 hours of continuing education every four years.

The board proposes to automate the registration process for continuing education providers. These changes will provide timelier application review, automated renewal, and an on-line database that practitioners can access to find authorized continuing education providers.

Staff salaries and benefits (1/3 director, assistant director, 5

case managers)

\$99,580

Inspector salaries and benefits (four inspectors)

\$167,349

Additional expenses for board members:

Eleven board meetings per year (7 board members)

Per diem \$2,446 annually

Travel and subsistence \$12,229 annually

Aside from salaries and benefits for staff, expenses include printing, postage, supplies, equipment, telephone, mileage for the inspectors' automobiles, web-hosting, etc. IPLA revenue is also used to support the operations of other state agencies with which it does business such as IDOA, ATG, SBA, and IOT.

3. Estimated Total Annual Economic Impact on Small Businesses

Fees for tanning facilities were set by statute and the board is not recommending increases in the amount of these fees. Cosmetology salon fees are low in proportion to what is assessed to tanning facilities. Salon fees need to be increased to cover the cost of inspections and the cost of administration.

Fees for individual licenses have, up until July 1, 2005, been set by statute. The change in the law will allow the cosmetology examiners to increase their fees to both support the operations of the board and to make Indiana's fees comparable with what is charged in sister states.

Fees have not been assessed for temporary permits, having been previously prohibited by statute. The prohibition has been repealed. The processing of an application for a temporary permit utilizes agency resources. The agency should recoup these expenses.

For schools, salons, tanning facilities, and continuing education educators (providers), the annual estimated economic impact is as follows:

	Current Revenue	Projected Revenue
Schools	\$2,800	\$3,500
Cosmetology Salons*	\$93,920	\$271,300
Tanning Facilities	\$174,400	\$174,400
CE Educators	\$0	\$26,800

*all types

4. Justification of Requirements or Costs

Pursuant to IC 25-1-8-2, fees shall not be less than are required to pay all of the costs, both direct and indirect, of the operation of the cosmetology board. In 2005, the General Assembly enacted SEA 139 (P.L. 194-2005) to give the Indiana Professional Licensing Agency and the boards, commissions, and committees it serves the authority to set fees by rule that had previously been set by statute. This change was considered imperative in order for the boards and commissions to keep up with the rising costs of national examinations and other expenses associated with operating a licensing board. However, it should be emphasized that the proposed rule changes will not increase or decrease the number of individuals or small businesses already affected by the current regulations.

5. Explanation of Determination

Proposed Rules

The board sought to set fees at the minimum levels needed in order to comply with IC 25-1-8-2.

6. Supporting Data, Studies, or Analyses

The agency used the following data in determining the fiscal impact of the rule:

The board conducted a comparison of fees assessed in various states. The following states were surveyed: Idaho, Iowa, Kentucky, Michigan, Minnesota, Ohio, Pennsylvania, and Wisconsin. Not all of these states issue each type of license. The current application fee for cosmetology schools is \$400. The proposed rule increases this fee to \$500. The average application fee in the surveyed states is \$510.50. The current renewal fee for cosmetology schools is \$400 every four years. The proposed rule increases this fee to \$500 every four years or \$125 per year. The average annual renewal fee in the surveyed states is \$136.

The current application fee for a tanning facility is \$200. The current renewal fee for a tanning facility is \$200 every two years. The board is not increasing these fees.

The current application fee for cosmetology salons, manicuring salons, electrology salons, and esthetic salons is \$40. The renewal fee for each of these business entities is \$10 per year. These fees are insufficient to cover the cost of providing services for salons.

The current application fee for individual licenses is \$40. The average individual application fee in the states surveyed is \$65.

The agency based its conclusions on the following assumptions:

Currently, a staff of seven employees works for the State Board of Cosmetology Examiners. These employees also staff the Barber and Funeral Boards. An additional four employees serve as inspectors and are on the road. In addition, other IPLA employees provide services to the Cosmetology Board and the thirty-eight other boards and commissions served by the IPLA. These include executive staff, legal, IT, HRD, receptionists, mail room, etc. Aside from salaries and benefits for staff, expenses include printing, postage, supplies, equipment, telephone, mileage for the inspectors' automobiles, web-hosting, etc. IPLA revenue is also used to support the operations of other state agencies with which it does business such as IDOA, ATG, SBA, and IOT.

820 IAC 2-2-2

820 IAC 6-1-5

820 IAC 5-1-20

820 IAC 7

820 IAC 6-1-2

SECTION 1. 820 IAC 5-1-20 IS AMENDED TO READ AS FOLLOWS:

820 IAC 5-1-20 License application required

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 20. To obtain a license to operate a tanning facility, a person must do the following:

(1) File an application with the board on a form prescribed by the board. Such information shall include the following:

(A) The name, address, and telephone number of the following:

(i) The tanning facility.

(ii) The owner of the tanning facility.

(iii) If the licensee is a corporation, all shareholders owning **at least** five percent (5%) ~~or greater~~ who own a sunlamp product.

(iv) If the licensee is a partnership, all partners of a business who own a sunlamp product.

(v) All settlors, trustees, and beneficiaries of trusts who own a sunlamp product.

(B) If the facility is mobile, the location, by address, at which the facility will be parked during the hours it is open for business.

(C) A signed and dated certification that the applicant has read and understands the requirements of this rule.

(D) All additional information requested by the ~~department~~ **board** to substantiate that the proposed facility can reasonably be expected to provide access to sunlamp products without causing a health or safety hazard to its customers.

(2) Pay ~~a the fee of two hundred dollars (\$200); set by the board in 820 IAC 7.~~

~~(3) Each person operating a tanning facility on the effective date of this rule shall apply for a permit no later than sixty (60) days following the effective date of this rule:~~

~~(4) (3) Each person establishing or acquiring a tanning facility after the effective date of this rule shall:~~

~~(A) apply to the board for a license; and~~

~~(B) obtain such the license; prior to before operating the facility.~~

~~(5) (4) The owner shall maintain and make available for inspection written records that must include the:~~

~~(A) manufacturer;~~

~~(B) year and month of manufacture;~~

~~(C) model number;~~

~~(D) serial number; and~~

~~(E) type;~~

~~of each sunlamp product located within the facility.~~

(State Board of Cosmetology Examiners; 820 IAC 5-1-20; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1378; filed Sep 17, 1998, 3:55 p.m.: 22 IR 457; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-20) to the State Board of Cosmetology Examiners (820 IAC 5-1-20) by P.L.142-1995, SECTION 33, effective July 1, 1995.

SECTION 2. 820 IAC 6-1-2 IS AMENDED TO READ AS FOLLOWS:

820 IAC 6-1-2 Application for approval as cosmetology educator

Authority: IC 25-8-3-23

Affected: IC 25-8

Sec. 2. (a) Educational institutions, organizations, or individuals applying for board approval as an approved cosmetology educator shall submit the following information:

- (1) Name, address, telephone number, **electronic mail address (if any)**, and facsimile (FAX) number (if any) of the applicant.
- (2) If the applicant is a:
 - (A) partnership, the names and addresses of the partners;
 - (B) corporation, the names and addresses of the officers and directors; **and**
 - (C) limited liability company, the names and addresses of the members and managers.

(b) Educational institutions, organizations, or individuals applying for board approval as an approved cosmetology educator shall submit the fee required under 820 IAC 7.
(State Board of Cosmetology Examiners; 820 IAC 6-1-2; filed Jul 18, 1996, 8:45 a.m.: 19 IR 3466; readopted filed Jul 18, 2002, 12:21 p.m.: 25 IR 4221)

SECTION 3. 820 IAC 6-1-5 IS AMENDED TO READ AS FOLLOWS:

820 IAC 6-1-5 Renewal of cosmetology educator approval

Authority: IC 25-8-3-23
 Affected: IC 25-8-15-2

Sec. 5. Board approval of a cosmetology educator under IC 25-8-15-2 expires on December 31 of each odd-numbered year. In order to renew board approval, an approved cosmetology educator under IC 25-8-15-2 must submit a letter to the following:

- (1) An application for renewal in the form and manner provided by the board.
- (2) The requesting such renewal by December 1 of that year; fee required under 820 IAC 7.

(State Board of Cosmetology Examiners; 820 IAC 6-1-5; filed Jul 18, 1996, 8:45 a.m.: 19 IR 3467; readopted filed Jul 18, 2002, 12:21 p.m.: 25 IR 4221)

SECTION 4. 820 IAC 7 IS ADDED TO READ AS FOLLOWS:

ARTICLE 7. FEES

Rule 1. Fees Applicable to Licensure; Verification; Duplicate Licenses

820 IAC 7-1-1 Application/issuance fees

Authority: IC 25-1-8-2; IC 25-8-4
 Affected: IC 25-8

Sec. 1. The board shall charge and collect the following application/issuance fees for licenses:

- (1) Cosmetologist \$50
- (2) Master cosmetologist \$50

- (3) Electrologist \$50
- (4) Esthetician \$50
- (5) Manicurist \$50
- (6) Shampoo operator \$50
- (7) Cosmetology instructor \$50
- (8) Esthetics instructor \$50
- (9) Electrology instructor \$50
- (10) Cosmetology school \$500
- (11) Cosmetology salon \$50
- (12) Electrology salon \$50
- (13) Esthetic salon \$50
- (14) Manicurist salon \$50
- (15) Tanning facility \$200
- (16) Cosmetology continuing education educator \$200

(State Board of Cosmetology Examiners; 820 IAC 7-1-1)

820 IAC 7-1-2 Examination fees

Authority: IC 25-1-8-2; IC 25-8-4
 Affected: IC 25-8

Sec. 2. An applicant for licensure by examination shall pay the examination or reexamination fee assessed by the professional examination service that administers the examination directly to the professional examination service.
(State Board of Cosmetology Examiners; 820 IAC 7-1-2)

820 IAC 7-1-3 Temporary permit fee

Authority: IC 25-1-8-2; IC 25-8-4
 Affected: IC 25-8

Sec. 3. The board shall charge and collect the following fees for temporary permits:

- (1) Cosmetologist \$10
- (2) Master cosmetologist \$10
- (3) Electrologist \$10
- (4) Esthetician \$10
- (5) Manicurist \$10
- (6) Shampoo operator \$10

(State Board of Cosmetology Examiners; 820 IAC 7-1-3)

820 IAC 7-1-4 Renewal fees

Authority: IC 25-1-8-2; IC 25-8-4
 Affected: IC 25-8

Sec. 4. (a) The board shall charge and collect the following renewal fees every four (4) years for licenses:

- (1) Cosmetologist \$100
- (2) Master cosmetologist \$100
- (3) Electrologist \$100
- (4) Esthetician \$100
- (5) Manicurist \$100
- (6) Shampoo operator \$100
- (7) Cosmetology instructor \$100
- (8) Esthetics instructor \$100
- (9) Electrology instructor \$100
- (10) Cosmetology school \$500
- (11) Cosmetology salon \$150

Proposed Rules

(12) Electrology salon	\$150
(13) Esthetic salon	\$150
(14) Manicurist salon	\$150
(15) Tanning facility	\$200

(b) The board shall charge and collect a three hundred dollar (\$300) renewal fee biennially for a cosmetology continuing education educator license. (State Board of Cosmetology Examiners; 820 IAC 7-1-4)

820 IAC 7-1-5 Fee for verification of a license to another state

Authority: IC 25-1-8-2; IC 25-8-4
Affected: IC 25-8

Sec. 5. The board shall charge and collect a ten dollar (\$10) fee for verification of a license to another state or jurisdiction. (State Board of Cosmetology Examiners; 820 IAC 7-1-5)

820 IAC 7-1-6 Fee for a duplicate permit

Authority: IC 25-1-8-2; IC 25-8-4
Affected: IC 25-8

Sec. 6. The board shall charge and collect a ten dollar (\$10) fee for the issuance of a duplicate license. (State Board of Cosmetology Examiners; 820 IAC 7-1-6)

SECTION 5. 820 IAC 2-2-2 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 28, 2005 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the State Board of Cosmetology Examiners will hold a public hearing on proposed amendments concerning license application requirements for tanning facilities, concerning approved cosmetology educators, and new rules to establish fees for issuance or renewal of cosmetology school licenses, cosmetology instructor licenses, esthetics instructor licenses, electrology instructor licenses, cosmetology salon licenses, electrology salon licenses, esthetic salon licenses, manicurist salon licenses, cosmetologist licenses, master cosmetologist licenses, electrologist licenses, esthetician licenses, manicurist licenses, shampoo operator licenses, and tanning facility licenses; to establish fees for examinations for licensure to practice as a cosmetology instructor, esthetics instructor, electrology instructor, cosmetologist, master cosmetologist, electrologist, esthetician, manicurist, or shampoo operator; to establish fees for temporary permits; to establish fees for verification of license status to another state or jurisdiction; to establish fees for issuance and renewal of approval as a cosmetology educator; and to repeal 820 IAC 2-2-2.

The State Board of Cosmetology Examiners has the authority to promulgate rules establishing the fees for examination, application, issuance, renewal, reinstatement, replacement or

duplicate licenses, verification of licenses, or temporary permits for cosmetology professionals, continuing education providers, cosmetology schools, cosmetology salons, manicuring salons, esthetician salons, and electrology salons. This proposed rule establishes the fees in compliance with the statutory changes in SEA 139 (P.L.194-2005). This proposed rule will have costs to entities.

Copies of these rules are now on file at the Indiana Professional Licensing Agency, Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

TITLE 852 INDIANA OPTOMETRY BOARD

Proposed Rule
LSA Document #05-184

DIGEST

Amends 852 IAC 1-12-1 concerning duties of optometrists to designate the manner and circumstances of use of the title "optometrist" and its abbreviation in conjunction with their name. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

Industry Sector 621320 Offices of Optometrists

The Indiana Optometry Board (Board) estimates that no small businesses will be directly affected by this rule. The Board has the authority to promulgate rules establishing the standards for the competent practice of optometry, which includes the standards of professional conduct. This proposed rule will have no cost on small businesses.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Board estimates that there will be no annual reporting, record keeping, or administrative costs incurred by small businesses to comply with this rule.

Estimated Total Annual Economic Impact on Small Businesses:

The Board estimates that there will be no impact on small businesses as a result of compliance with this rule.

• **Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law:** There are no compliance costs on small businesses that need to be justified for this proposed rule.

• **Supporting Data, Studies, or Analyses:** The Board has relied on no supporting data, studies, or analyses in reaching these

estimates.

Regulatory Flexibility Analysis of Alternative Methods:

The Board has not analyzed alternatives to this proposed rule.

- Explanation of Preliminary Determination: The General Assembly gave the Board the authority to enact and establish these rules, and thus the Board did not explore alternative measures.
- Supporting Data, Studies, or Analyses: The Board did not rely on any studies in its decision not to employ alternatives to rulemaking.

852 IAC 1-12-1

SECTION 1. 852 IAC 1-12-1 IS AMENDED TO READ AS FOLLOWS:

852 IAC 1-12-1 Duties of optometrist

Authority: IC 25-24-1-1
Affected: IC 25-24-1-3

Sec. 1. (a) An optometrist in the conduct of his **or her** practice of optometry shall abide by, and comply with, the following standards of professional conduct **in this section.**

~~(a)~~ (b) An optometrist shall **do the following:**

(1) Maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to:

- (A) the patient’s diagnosis, treatment, and prognosis; and ~~of~~
- (B) all records relating thereto;

about which the optometrist may learn or otherwise be informed during the course of, or as a result of, the patient-optometrist relationship. Information about a patient shall be disclosed by an optometrist when required by law or when authorized by the patient or those responsible for the patient’s care.

~~(b)~~ An optometrist shall (2) Give a truthful, candid, and reasonably complete account of the patient’s condition to the patient or to those responsible for the patient’s care, except where an optometrist reasonably determines that the information is or would be detrimental to the physical or mental health of:

- (A) the patient; or
- (B) in the case of a minor or incompetent person, ~~except where an optometrist reasonably determines that the information would be detrimental to the physical or mental health of~~ those responsible for the patient’s care.

~~(c)(1)~~ The optometrist shall (3) Give reasonable written notice to an active patient or those responsible for the patient’s care when the optometrist withdraws from a case so that another optometrist may be employed by the patient or by those responsible for the patient’s care. An optometrist shall not abandon a patient. As used in this section, “active patient” means a person whom the optometrist has examined, cared for, or otherwise consulted with, during the two-year period ~~prior to~~ **before any of the following:**

- (A) Retirement.
- (B) Discontinuation of **the** practice of optometry. ~~or~~
- (C) Leaving or moving from the community.

~~(2)~~ An optometrist who withdraws from a case, except in emergency circumstances, shall, upon written request, make available to his **or her** patient all records, test results, histories, diagnoses, files, and information relating to ~~said the~~ patient ~~which that~~ are in the optometrist’s custody, possession, or control, or copies of ~~such the~~ documents ~~hereinbefore~~ described **in this subdivision.**

~~(d)~~ An optometrist shall (4) Exercise reasonable care and diligence in the diagnosis and treatment of patients based upon approved:

- (A) scientific principles;
- (B) methods;
- (C) treatments;
- (D) professional theory; and
- (E) practice.

~~(e)~~ (c) An optometrist shall not:

- (1) represent;
- (2) advertise;
- (3) state; or
- (4) indicate;

the possession of any degree recognized as the basis for licensure to practice optometry unless the optometrist is actually licensed on the basis of ~~such the~~ degree in the **state or** states in which he **or she** practices.

(d) **To designate that an optometrist is licensed to practice optometry in Indiana, the optometrist shall use, in conjunction with his or her name, the words “optometrist” or “doctor of optometry” or the abbreviation “O.D.” on all of the following:**

- (1) Signs.
- (2) Letterhead.
- (3) Business cards.
- (4) Similar items of identification.
- (5) Advertising.
- (6) Solicitation of any kind.

However, an optometrist shall not use any words that would mislead the public into believing the optometrist is licensed in Indiana to practice any other licensed occupation or profession for which the optometrist does not hold an Indiana license.

~~(f)~~ (e) An optometrist shall obtain consultation whenever requested to do so by:

- (1) a patient; or ~~by~~
- (2) those responsible for a patient’s care.

~~(g)~~ (f) An optometrist who has personal knowledge:

- (1) based upon a reasonable belief that another optometrist has engaged in:
 - (A) illegal;

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- (B) unlawful;
- (C) incompetent; or
- (D) fraudulent;

conduct in the practice of optometry; ~~shall promptly report such conduct to the board.~~ Further, an optometrist who has personal knowledge or

(2) of any person:

- (A) engaged in; or
- (B) attempting to engage in;

the unauthorized practice of optometry;

shall promptly report ~~such~~ the conduct to the board. (*Indiana Optometry Board; 852 IAC 1-12-1; filed May 11, 1987, 9:00 a.m.: 10 IR 1876; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on February 15, 2006 at 9:15 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the Indiana Optometry Board will hold a public hearing on proposed amendments concerning duties of optometrists to designate the manner and circumstances of use of the title "optometrist" and its abbreviation in conjunction with their name.

The Indiana Optometry Board has the authority to promulgate rules establishing the standards for the competent practice of optometry, which includes the standards of professional conduct. The Board presided over a disciplinary case wherein the practitioner referred to himself as an "optometric physician". The Board determined that the use of that title was beyond the scope of the practice and could mislead the public. Currently, the Board does not have any rules that specifies and/or limits the use of titles and/or abbreviations when referring to an optometrist. This proposed rule will clarify and limit the title and/or abbreviation that an optometrist may use in conjunction with their name, which will protect the public. This proposed rule will have no cost on the regulated entities.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

TITLE 856 INDIANA BOARD OF PHARMACY

Proposed Rule

LSA Document #05-138

DIGEST

Adds 856 IAC 1-38 to implement rules based on House

Enrolled Act 1098 (P.L.212-2005) to establish standards and procedures to ensure that a pharmacist has entered into a contract that accepts the return of expired drugs with or is subject to a policy that accepts the return of expired drugs of a wholesaler, manufacturer, or agent of a wholesaler or manufacturer. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

NAICS 446110 Pharmacies and Drug Stores

NAICS 424210 Drugs and Druggists' Sundries Merchant Wholesalers

The Indiana Board of Pharmacy (Board) estimates that some small businesses will be directly affected by this rule. The Indiana Board of Pharmacy has the authority to promulgate rules in accordance with the requirements of HEA 1098 (P.L.212-2005) to establish standards and procedures to ensure that a pharmacist has entered into a contract that accepts the return of expired drugs with or is subject to a policy that accepts the return of expired drugs of a wholesaler, manufacturer, or agent of a wholesaler or manufacturer. This proposed rule will not have any costs on small businesses. In fact, the proposed rule when implemented will make it easier for independent pharmacies to return expired drugs for credit or replacement.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Board estimates that there will be minimal annual reporting, record keeping, or administrative costs incurred by small businesses to comply with this rule. The drug manufacturers will have to maintain records for credits and replacements of expired drugs.

Estimated Total Annual Economic Impact on Small Businesses:

The Board estimates that there will be no impact on small businesses as a result of compliance with this rule.

- Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law: There will be no compliance costs on small businesses.

- Supporting Data, Studies, or Analyses: The Board has not relied on any studies in reaching these estimates.

Regulatory Flexibility Analysis of Alternative Methods:

The new proposed rule was mandated by P.L.212-2005 (HEA 1098-2005); therefore, the Board has not analyzed alternatives to this proposed rule.

- Explanation of Preliminary Determination: The General Assembly required the Board to enact and establish these rules, and thus the Board did not explore alternative measures.

- Supporting Data, Studies, or Analyses: The Board did not rely on any studies in its decision not to employ alternatives to rulemaking.

856 IAC 1-38

SECTION 1. 856 IAC 1-38 IS ADDED TO READ AS

FOLLOWS:

Rule 38. Credit for Returned Expired Drugs

856 IAC 1-38-1 Applicability

Authority: IC 25-26-13-4
Affected: IC 25-26-13

Sec. 1. (a) This rule establishes the standards and procedures concerning the return of expired legend drugs by an individual or entity licensed to receive legend drugs to either of the following:

- (1) A drug manufacturer.
- (2) A designated agent of a drug manufacturer.

(b) This rule does not apply to the following:

- (1) Vaccines that prevent influenza.
- (2) Medicine used for the treatment of malignant hyperthermia.
- (3) Other legend drugs as determined by the board.

(Indiana Board of Pharmacy; 856 IAC 1-38-1)

856 IAC 1-38-2 "Board" defined

Authority: IC 25-26-13-4
Affected: IC 25-26-13-2

Sec. 2. As used in this rule, "board" has the meaning set forth in IC 25-26-13-2. *(Indiana Board of Pharmacy; 856 IAC 1-38-2)*

856 IAC 1-38-3 "Designated agent" defined

Authority: IC 25-26-13-4
Affected: IC 25-26-13

Sec. 3. As used in this rule, "designated agent" means an individual or entity that contracts with a drug manufacturer to administer the manufacturer's drug return policy for expired legend drugs. *(Indiana Board of Pharmacy; 856 IAC 1-38-3)*

856 IAC 1-38-4 Application of return of expired drugs

Authority: IC 25-26-13-4
Affected: IC 25-26-13

Sec. 4. Effective with all drug orders placed after December 31, 2005, all drug manufacturers or their designated agents shall make adequate provisions for the return of expired legend drugs. *(Indiana Board of Pharmacy; 856 IAC 1-38-4)*

856 IAC 1-38-5 Record keeping

Authority: IC 25-26-13-4
Affected: IC 25-26-13

Sec. 5. Drug manufacturers or their designated agents shall do the following:

- (1) Maintain records of all credits made under this rule for a period of two (2) years.
- (2) Make the records available to the board or its agent

upon request.

(Indiana Board of Pharmacy; 856 IAC 1-38-5)

856 IAC 1-38-6 Compliance with other relevant law

Authority: IC 25-26-13-4
Affected: IC 25-26-13

Sec. 6. The return of expired legend drugs under this rule shall also be consistent with all other applicable federal, state, and local laws and regulations. *(Indiana Board of Pharmacy; 856 IAC 1-38-6)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 12, 2005 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the Indiana Board of Pharmacy will hold a public hearing on a proposed new rule to implement rules based on House Enrolled Act 1098 (P.L.212-2005) to establish standards and procedures to ensure that a pharmacist has entered into a contract that accepts the return of expired drugs with or is subject to a policy that accepts the return of expired drugs of a wholesaler, manufacturer, or agent of a wholesaler or manufacturer.

The Indiana Board of Pharmacy has the authority to promulgate rules establishing the standards and procedures for the return of expired drugs by an individual or entity to a wholesaler, manufacturer, or agent of a wholesaler or manufacturer. This proposed rule establishes those standards and policies. This proposed rule will have no costs to regulated entities. In fact, this proposed rule when implemented will make it easier for independent pharmacies to return expired drugs for credit or replacement.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

**TITLE 865 STATE BOARD OF REGISTRATION
FOR LAND SURVEYORS**

Proposed Rule
LSA Document #05-82

DIGEST

Amends 865 IAC 1-1 to revise the definitions and board meeting scheduling. Amends 865 IAC 1-2 to revise the minimum education and experience requirements established under IC 25-21.5-5-2 for admission to the land surveyor and land

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surveyor-in-training examination. Amends 865 IAC 1-3-2 concerning students enrolled in an approved land surveying curriculum submitting the SIT examination application to a board designee on the student's campus. Amends 865 IAC 1-4 to update and clarify requirements concerning examinations. Amends 865 IAC 1-5 to revise the standards for comity registration. Amends 865 IAC 1-7 to revise the design, application, and use of the land surveyor seal and to establish the definitions, standards, and requirements for the use of electronic or digital signatures. Amends 865 IAC 1-8-1 to clarify language regarding the payment of renewal fees. Amends 865 IAC 1-9 to require a registrant to identify the address of all the offices that the registrant is in responsible charge of land surveying work and to require a registrant to notify the board of any change in the registrant's address and office address. Revises 865 IAC 1-10-11 and 865 IAC 1-10-12 to update the disclosure of conflicts of interest. Amends 865 IAC 1-12 to revise the standards for the competent practice of land surveying. Amends 865 IAC 1-13 to revise the continuing education requirements for registered land surveyors. Amends 865 IAC 1-14 to revise the requirements for land surveyor continuing education providers. Repeals 865 IAC 1-4-9, 865 IAC 1-10-11, 865 IAC 1-12-8, 865 IAC 1-12-15, 865 IAC 1-12-16, 865 IAC 1-12-17, 865 IAC 1-12-19, and 865 IAC 1-12-26. Partially effective 30 days after filing with the Secretary of State and partially effective August 1, 2006.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

NAICS 541370 Surveying and Mapping (except Geophysical) Services

The State Board of Registration of Land Surveyors (Board) estimates that some small businesses will be directly affected by this rule. The Board has the authority to promulgate rules in accordance with IC 4-22-2 to enforce and administer IC 25-21.5, including establishing the standards for the competent practice of land surveying. This proposed rule will not have any costs on small businesses. The proposed rule clarifies language to make the rules consistent with the Board's statutes, removes out-of-date and unnecessary language in the rules, revises and clarifies the standards for the competent practice of land surveying to reflect the current practice and to assist the Board in disciplinary hearings, revises the continuing education requirements to allow licensees to carry over excess hours, and allow continuing education providers to submit continuing education hours electronically.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Board estimates that there will be no annual reporting, record keeping, or administrative costs incurred by small businesses to comply with this rule.

Estimated Total Annual Economic Impact on Small Businesses:

The Board estimates that there will be no impact on small

businesses as a result of compliance with this rule.

- Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law: There will be no compliance costs on small business.

- Supporting Data, Studies, or Analyses: The Board has not relied on any studies in reaching these estimates.

Regulatory Flexibility Analysis of Alternative Methods:

The new proposed rule was mandated by IC 25-21.5-2-14 for the Board to enforce and administer its article and to establish the standards of the competent practice of land surveying. Therefore, the Board has not analyzed alternatives to this proposed rule.

- Explanation of Preliminary Determination: The General Assembly required the Board to enact and establish these rules, and thus the Board did not explore alternative measures.

- Supporting Data, Studies, or Analyses: The Board did not rely on any studies in its decision not to employ alternatives to rulemaking.

865 IAC 1-1-1	865 IAC 1-12-13
865 IAC 1-1-2	865 IAC 1-12-14
865 IAC 1-2-1	865 IAC 1-12-15
865 IAC 1-2-2	865 IAC 1-12-16
865 IAC 1-3-2	865 IAC 1-12-17
865 IAC 1-4-3	865 IAC 1-12-18
865 IAC 1-4-6	865 IAC 1-12-19
865 IAC 1-4-7	865 IAC 1-12-20
865 IAC 1-4-8	865 IAC 1-12-21
865 IAC 1-4-9	865 IAC 1-12-22
865 IAC 1-5-1	865 IAC 1-12-23
865 IAC 1-5-2	865 IAC 1-12-24
865 IAC 1-7-1	865 IAC 1-12-25
865 IAC 1-7-2	865 IAC 1-12-26
865 IAC 1-7-3	865 IAC 1-12-27
865 IAC 1-7-4	865 IAC 1-12-28
865 IAC 1-8-1	865 IAC 1-12-29
865 IAC 1-9-1	865 IAC 1-12-30
865 IAC 1-10-11	865 IAC 1-13-2
865 IAC 1-10-12	865 IAC 1-13-5
865 IAC 1-10-25	865 IAC 1-13-7
865 IAC 1-12-2	865 IAC 1-13-8
865 IAC 1-12-3	865 IAC 1-13-10
865 IAC 1-12-4	865 IAC 1-13-11
865 IAC 1-12-5	865 IAC 1-13-19
865 IAC 1-12-7	865 IAC 1-14-2
865 IAC 1-12-8	865 IAC 1-14-13
865 IAC 1-12-9	865 IAC 1-14-14
865 IAC 1-12-10	865 IAC 1-14-15
865 IAC 1-12-12	865 IAC 1-14-16

SECTION 1. 865 IAC 1-1-1 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-1-1 Definitions; abbreviations

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5-1-5; IC 25-21.5-5-2

Sec. 1. (a) The following definitions apply throughout this title:

- (1) "The act" means the Registration Act, IC 25-21.5, creating a board to regulate the practice of land surveying in Indiana.
- (2) "Applicant" means any individual whose application has been received by the board for consideration to be registered as a land surveyor or for enrollment as a SIT in the state of Indiana.
- (3) "Approved land surveying curriculum", when used relative to a land surveyor or SIT applicant, means a four (4) year or more curriculum leading to a bachelor's degree in land surveying that is approved by the board.
- (4) "Comity" means a principle by which the board licenses persons to practice land surveying on the basis land surveying licenses issued by other states.
- (5) "Date of registration" means the date of the certificate that was assigned by the board.
- ~~(2)~~ (6) "Land surveyor" means one and the same as a registered land surveyor.
- ~~(3)~~ (7) "Registrant" means an individual land surveyor to whom a certificate of registration has been granted under the act.
- ~~(4)~~ (8) "SIT" means an enrolled land-surveyor-in-training as defined in IC 25-21.5-1-5.
- (5) "Applicant" means any individual whose application has been received by the board for consideration to be registered as a land surveyor or for enrollment as a SIT in the state of Indiana.
- (6) "Approved land surveying curriculum", when used relative to a land surveyor or SIT applicant, means a four (4) year or more curriculum leading to a bachelor's degree in land surveying which is approved by the board.
- (9) "Valid enrollment", when used relative to SIT, means that the certificate of enrollment held by the individual is current and not suspended or revoked.
- ~~(7)~~ (10) "Work experience", when used relative to a land surveyor, means acceptable experience in land surveying work which that conforms to the provisions of IC 25-21.5-5-2.
- (8) "Valid enrollment", when used relative to SIT, means that the certificate of enrollment held by the individual is current and not suspended or revoked.
- (9) "Date of registration" means the date of the certificate which was assigned by the board.
- (10) "Comity" means a principle by which the board licenses persons to practice land surveying on the basis land surveying licenses issued by other states.
- (11) "FE" means the applicable fundamental examination portion of the registration examination for land surveyors, otherwise described as Part I of the respective examinations, IC 25-21.5-6-1.

(b) The terms defined in IC 25-21.5-1 shall have the same definitions when used in this title. (*State Board of Registration*

for Land Surveyors; Rule 1, Sec 1; filed Feb 29, 1980, 3:40 p.m.: 3 IR 626; filed Oct 17, 1986, 2:20 p.m.: 10 IR 434; filed Jun 21, 1988, 4:00 p.m.: 11 IR 3904; filed Oct 13, 1992, 5:00 p.m.: 16 IR 873; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-1-1 was renumbered by Legislative Services Agency as 865 IAC 1-1-1.

SECTION 2. 865 IAC 1-1-2 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-1-2 Meetings of board

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5-2-11

Sec. 2. In order to establish the regular meetings provided for in IC 25-21.5-2-11 and provide for special meetings of the board, the board adopts the following:

- (1) One (1) of the regular meetings of the board shall be held as soon as practicable after the start of the calendar year, at which meeting the board shall elect a ~~chairman~~ **chairperson** and a vice ~~chairman~~ **chairperson** from among its members. ~~Such officers~~ **The chairperson and vice chairperson** may also be elected also at any other meeting when a vacancy exists.
- ~~(2) Another regular meeting shall be held as near as practicable to the middle of the calendar year.~~
- ~~(3)~~ (2) The ~~chairman~~ **chairperson** or any three (3) members may call a special meeting by presenting a request to the **Indiana** professional licensing agency.
- ~~(4)~~ (3) The **Indiana** professional licensing agency shall give a notice to all board members of each meeting:
 - (A) setting out the time and place of the meeting; and
 - (B) including a proposed agenda of the major items for action at the meeting;
 not less than ten (10) days ~~prior to~~ **before** the meeting unless ~~such the~~ notice has been waived by the ~~chairman~~ **chairperson**.

(State Board of Registration for Land Surveyors; Rule 1, Sec 3; filed Feb 29, 1980, 3:40 p.m.: 3 IR 627; filed Oct 17, 1986, 2:20 p.m.: 10 IR 435; filed Oct 13, 1992, 5:00 p.m.: 16 IR 874; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-1-3 was renumbered by Legislative Services Agency as 865 IAC 1-1-2.

SECTION 3. 865 IAC 1-2-1 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-2-1 Land surveyors; education and work experience

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5-1-7; IC 25-21.5-5-2

Sec. 1. (a) This section establishes the minimum education and experience requirements under IC 25-21.5-5-2 for admission to the land surveyor examination.

(b) The table in this subsection establishes provisions for

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evaluating combined education and experience to determine if it is sufficient to satisfy minimum registration requirements under IC 25-21.5-5-2 for land surveyor registration applicants. For all levels of education stated, ~~except for no degree, a minimum of one-half (½) of the required experience must be obtained following receipt of a bachelor's the first degree~~ However, experience obtained either before or after graduation may be counted in which case the total amount of experience for each educational level stated in the table, ~~except no degree, shall be increased by one (1) year in addition to the amount stated for the particular education level.~~ The requirements are as follows:

Education	Minimum Years of Work Experience
Doctorate in land surveying discipline following bachelor's degree in a board-approved land surveying curriculum	2
Master's degree in land surveying discipline following bachelor's degree in a board-approved land surveying curriculum	3
Bachelor's degree in a board-approved land surveying curriculum	4
Doctorate in land surveying following a bachelor's degree that is not in a board-approved land surveying curriculum	3
Master's degree in land surveying following bachelor's degree that is not in a board-approved land surveying curriculum	4
Bachelor's degree that is not in a board-approved land surveying curriculum	5
No degree but Associate degree and meets the college course requirements stated in subsection (c)	6

(c) The education of all applicants must include the following minimum level of education:

- (1) Twelve (12) semester credit hours in college level mathematics, including at least ~~four (4)~~ **a three (3)** semester credit hour course in calculus or differential equations.
- (2) ~~Six (6)~~ **Five (5)** semester credit hours in college level physics.
- (3) Six (6) semester credit hours in any of the following college level ~~physical~~ science subjects:
 - (A) Chemistry.
 - (B) Astronomy.
 - (C) Physics.
 - (D) Geology.
 - (E) Botany.
 - (F) Dendrology.

(4) Twenty-seven (27) semester credit hours in college level land surveying courses consisting of the following:

(A) At least eighteen (18) semester credit hours in courses in each of the following six (6) subjects:

- (i) Land survey systems.
- (ii) Property surveys.
- (iii) Property descriptions, writing, and analysis.
- (iv) Surveying law.
- (v) Surveying calculations, including mensuration statistics.
- (vi) Subdivision planning and design.

(B) At least nine (9) semester credit hours in courses in at least three (3) of the following subjects:

- (i) Topographic surveying.
- (ii) Photogrammetric surveying.
- (iii) Route surveying.
- (iv) Construction surveying.
- (v) Control surveying.

One (1) basic engineering course related to roads, storm drainage, and sanitary sewer extensions may be counted toward ~~this requirement.~~ **the requirements of this clause.**

(d) No degree requirement under this section will be satisfied by obtaining an honorary or correspondence degree.

(e) College courses with a substantial duplication of content may be counted only one (1) time toward the education requirements in this section.

(f) Applicants for land surveyor registration or surveyor-in-training certification may be required to submit detailed course descriptions of any courses for which credit is claimed.

(g) Notwithstanding other provisions of this section, applicants who hold a valid land-surveyor-in-training certificate do not need any additional education beyond that ~~which was~~ required for admission to the land-surveyor-in-training examination, so long as they apply for admission to the land surveyor examination ~~no not~~ later than:

(1) January 2, 2003; or

(2) five (5) years after the first examination application deadline (as provided for in 865 IAC 1-3-3) subsequent to the date the applicant passed the land-surveyor-in-training examination that was the basis for issuance of the land-surveyor-in-training certification;

whichever is later.

(h) The board may require an evaluation of foreign education to allow the board to compare an applicant's courses with the board's course requirements.

(i) All land surveying experience required by subsection (b) must be acquired under the supervision of:

(1) a ~~registered~~ land surveyor **registered by the state of Indiana;**

(2) **a land surveyor registered or licensed by another state**

or territory of the United States; or
(3) the foreign equivalent to a registered land surveyor;
appropriate to where the experience was obtained.

(j) No experience obtained ~~prior to~~ **before** the applicant's eighteenth birthday shall qualify under this section.

(k) At least ~~half~~ **one-half (½)** of the required land surveying experience must be acquired in a state or territory in the United States under the supervision of a land surveyor registered in that state or territory.

- (l) The land surveying experience must:
- (1)** be progressive in nature; and
 - (2)** show that the applicant has demonstrated the ability to assume continuously increasing levels of responsibility and sophistication in the land surveying activities listed in 865 IAC 1-12-3(a).

(m) ~~Not less than~~ **At least** sixty percent (60%) of an applicant's land surveying experience **required under subsection (b)** must be in the activities listed in **the following**:

- (1)** IC 25-21.5-1-7(a)(1). ~~and~~
- (2)** IC 25-21.5-1-7(a)(3) through IC 25-21.5-1-7(a)(5).

(n) The board may require an applicant to provide additional information relating to the applicant's land surveying experience. (*State Board of Registration for Land Surveyors; Rule 2, Sec 3; filed Feb 29, 1980, 3:40 p.m.: 3 IR 628; filed Oct 17, 1986, 2:20 p.m.: 10 IR 436; errata filed Mar 8, 1990, 5:00 p.m.: 13 IR 1189 voided by the attorney general filed Apr 18, 1990: 13 IR 1863; errata filed Dec 20, 1990, 5:00 p.m.: 14 IR 1071; filed Oct 13, 1992, 5:00 p.m.: 16 IR 874; filed Jun 17, 1999, 1:57 p.m.: 22 IR 3415, eff Jan 3, 2003; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) **NOTE: 864 IAC 1.1-2-3 was renumbered by Legislative Services Agency as 865 IAC 1-2-1.**

SECTION 4. 865 IAC 1-2-2 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-2-2 Land-surveyors-in-training; education and work experience

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5-5-3

Sec. 2. (a) The education and experience requirements of section 1 of this rule for land surveyor applicants apply for land-surveyor-in-training applicants, except that **applicants with:**

- (1)** ~~applicants who do not have a an associate degree but meet and meeting~~ the education requirements of section 1(c) of this rule shall be required to obtain ~~only~~ two (2) years of work experience;
- (2)** ~~applicants with~~ a bachelor's degree that is not in a board-approved land surveying curriculum ~~but meet and meeting~~ the education requirements of section 1(c) of this rule shall be

required to obtain ~~only~~ one (1) year of work experience; and
(3) ~~applicants with~~ the other degrees listed in section 1(b) of this rule shall not be required to obtain any work experience.

(b) An applicant who is enrolled as a senior in a land surveying curriculum in a college or university that has an approved land surveying curriculum may take the last land-surveyor-in-training examination offered on the individual's campus ~~prior to before~~ the applicant's scheduled graduation. This subsection does not apply to any applicant enrolled in any other bachelor's degree program. (*State Board of Registration for Land Surveyors; Rule 2, Sec 5; filed Feb 29, 1980, 3:40 p.m.: 3 IR 628; filed Oct 17, 1986, 2:20 p.m.: 10 IR 438; errata filed Mar 8, 1990, 5:00 p.m.: 13 IR 1189 voided by the attorney general filed Apr 18, 1990: 13 IR 1863; errata filed Dec 20, 1990, 5:00 p.m.: 14 IR 1071; filed Oct 13, 1992, 5:00 p.m.: 16 IR 875; filed Jun 17, 1999, 1:57 p.m.: 22 IR 3417, eff Jan 3, 2003; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) **NOTE: 864 IAC 1.1-2-5 was renumbered by Legislative Services Agency as 865 IAC 1-2-2.**

SECTION 5. 865 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-3-2 Land-surveyor-in-training; application

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 2. (a) A student enrolled in an approved land surveying curriculum ~~shall~~ **may** submit the application to sit for the ~~SFF~~ **land-surveyor-in-training** examination to the designee of the board, **if any**, located on the student's campus.

(b) All other applicants shall submit their applications to the board's office. (*State Board of Registration for Land Surveyors; Rule 3, Sec 3; filed Feb 29, 1980, 3:40 p.m.: 3 IR 630; filed Oct 17, 1986, 2:20 p.m.: 10 IR 439; filed Oct 13, 1992, 5:00 p.m.: 16 IR 875; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) **NOTE: 864 IAC 1.1-3-3 was renumbered by Legislative Services Agency as 865 IAC 1-3-2.**

SECTION 6. 865 IAC 1-4-3 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-4-3 Content of land surveying examinations; scheduling of examinations

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5-6-1

Sec. 3. (a) The examination for registration as a land surveyor shall consist of two (2) parts as described in IC 25-21.5-6-1. Part I shall be known as the **basic disciplines** (fundamentals of land surveying) examination. Part II shall be:

- (1)** known as the principles and practice examination; and ~~shall be~~
- (2)** divided into two (2) sections.

Section A shall consist of matters concerning principles and practice except for laws applicable to land surveying specific to

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Indiana. Section B shall concern laws applicable to land surveying specific to Indiana. In order to be granted registration as a land surveyor, the applicant must pass Part I, Part IIA, and Part IIB.

(b) The examination for certification as a land-surveyor-in-training shall be the **fundamentals basic disciplines** examination described in subsection (a).

(c) Regularly scheduled examinations will be held in April and October each year. (*State Board of Registration for Land Surveyors; 865 IAC 1-4-3; filed Jun 21, 1988, 4:00 p.m.: 11 IR 3906; filed Jul 24, 1989, 5:00 p.m.: 12 IR 2284; filed Oct 13, 1992, 5:00 p.m.: 16 IR 876; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) NOTE: 864 IAC 1.1-4.1-4 was renumbered by Legislative Services Agency as 865 IAC 1-4-3.

SECTION 7. 865 IAC 1-4-6 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-4-6 Examination attempts for registration as a land surveyor

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 6. (a) This section and section 7 of this rule apply to the examination for registration as a land surveyor.

(b) An applicant who does not pass the entire examination in the first attempt shall be entitled to take it two (2) additional times provided that both of the applicant's additional examinations are taken no later than the fourth regularly scheduled examination after the failure of the first examination.

~~(c) Notwithstanding subsection (b), an applicant who has two (2) or more examination attempts remaining prior to July 1, 2001, shall only have two (2) additional examination attempts remaining after June 30, 2001. Both of those examination attempts must be used prior to June 30, 2003.~~

~~(d) Notwithstanding subsection (b), an applicant who has one (1) examination attempt remaining prior to July 1, 2001, shall only have one (1) additional examination attempt remaining after June 30, 2001. The examination attempt must be used prior to June 30, 2002.~~

~~(e)~~ (c) An applicant who passes one (1) or two (2) parts of the land surveyor examination:

- (1) Part I;
- (2) Part IIA; or
- (3) Part IIB;

in any prior taking of the examination allowed under subsection (b), shall not be required to again take and pass that part or those parts in the remaining examination attempts allowed by subsection (b).

~~(f)~~ (d) Upon exhaustion of all of the examination attempts

allowed under subsection (b), the application shall be deemed terminated. (*State Board of Registration for Land Surveyors; 865 IAC 1-4-6; filed Jun 21, 1988, 4:00 p.m.: 11 IR 3906; filed Jul 24, 1989, 5:00 p.m.: 12 IR 2284; filed Oct 13, 1992, 5:00 p.m.: 16 IR 877; filed May 4, 2001, 11:10 a.m.: 24 IR 2696, eff Jul 1, 2001; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) NOTE: 864 IAC 1.1-4.1-7 was renumbered by Legislative Services Agency as 865 IAC 1-4-6.

SECTION 8. 865 IAC 1-4-7 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-4-7 Terminated applications; reapplication for admission; qualifications

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5-2

Sec. 7. (a) An individual whose application has been deemed terminated under ~~section 6(f)~~ **section 6(d)** of this rule may reapply for admission to the examination.

(b) In order for readmission to be granted, the applicant must have completed the following:

- (1) Since the termination of the application, nine (9) or more semester hours credit (or its equivalent) of college level courses in land surveying.
- (2) Appropriate experience of the type required under IC 25-21.5-5-2 for the period of at least three (3) years **immediately preceding after termination but before** the filing of the reapplication.

(c) An applicant who is readmitted to an examination under this section shall be treated as if the applicant had not previously taken the examination for all purposes under sections 4 and 6 of this rule. However, if the applicant has previously passed Part I of ~~this the~~ land surveyor examination, the applicant shall not be required to retake Part I. ~~as long as the applicant's second examination was taken at either of the next two (2) regularly scheduled examinations after the failure of the first examination.~~ (*State Board of Registration for Land Surveyors; 865 IAC 1-4-7; filed Jun 21, 1988, 4:00 p.m.: 11 IR 3907; errata filed Feb 5, 1990, 4:15 p.m.: 13 IR 1066; filed Nov 15, 1990, 1:35 p.m.: 14 IR 757; filed Oct 13, 1992, 5:00 p.m.: 16 IR 877; filed May 4, 2001, 11:10 a.m.: 24 IR 2696, eff Jul 1, 2001; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) NOTE: 864 IAC 1.1-4.1-8 was renumbered by Legislative Services Agency as 865 IAC 1-4-7.

SECTION 9. 865 IAC 1-4-8 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-4-8 Examination attempts for certification as a land-surveyor-in-training

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 8. (a) This section applies to the examination for

certification as a land-surveyor-in-training.

(b) An applicant who does not pass the examination may take it two (2) additional times provided that the applicant applies for the second and third ~~examination~~ **examinations** within two (2) years of the date of the first examination. ~~Any individual who took the examination the first time after January 1, 2002, shall be entitled to the third attempt.~~ (State Board of Registration for Land Surveyors; 865 IAC 1-4-8; filed Jun 21, 1988, 4:00 p.m.: 11 IR 3907; filed Oct 13, 1992, 5:00 p.m.: 16 IR 878; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Nov 15, 2002, 3:33 p.m.: 26 IR 1105) **NOTE: 864 IAC 1.1-4.1-9 was renumbered by Legislative Services Agency as 865 IAC 1-4-8.**

SECTION 10. 865 IAC 1-5-1 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-5-1 Comity registration standards

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5-7-4

Sec. 1. In order to define “a standard not lower than that specified in the applicable registration act in effect in the state at the time such certificate (in other state) was issued” ~~IC 25-21.5-7-4~~, the board adopts the following:

- (1) An applicant for comity registration shall have a valid certificate as a land surveyor in another state.
- (2) When the basis of registration in **who meets the other state of registration was at a standard lower than current Indiana at the time the original license was secured**, the board will assign to the applicant those parts of the examination **registration requirements as are needed, found in the board’s judgment, IC 25-21.5 and this title shall be deemed to meet the standards: requirements of IC 25-21.5-5-7.**

(State Board of Registration for Land Surveyors; Rule 5, Sec 1; filed Feb 29, 1980, 3:40 p.m.: 3 IR 630; filed Oct 13, 1992, 5:00 p.m.: 16 IR 878; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) **NOTE: 864 IAC 1.1-5-1 was renumbered by Legislative Services Agency as 865 IAC 1-5-1.**

SECTION 11. 865 IAC 1-5-2 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-5-2 Land surveyor applicant

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 2. ~~(a)~~ A land surveyor:
(1) registered in another state;
(2) making application for registration in Indiana; and ~~who is~~
(3) otherwise qualified;
shall be assigned Part IIB of the land surveyor examination as described in 865 IAC 1-4-3.

(b) Subject to passing the examination set out in subsection (a); registration may be granted to an applicant having education and acceptable work experience which meets one (1) of the

following conditions:

- (1) Passed a sixteen (16) hour written examination in land surveying which included eight (8) hours in land surveying fundamentals and had four (4) years of work experience.
- (2) Originally registered between July 10, 1961, and August 17, 1969, inclusive; passed a sixteen (16) hour written examination in land surveying; and had one (1) year of work experience.
- (3) Originally registered between January 1, 1950, and July 9, 1961, inclusive; passed the complete written examination given at that time in the state of registration but not less than eight (8) hours; and had one (1) year of work experience.
- (4) Originally registered between July 1, 1935, and December 31, 1949, inclusive; graduated from an approved land surveying curriculum; and had two (2) years of work experience.
- (5) Originally registered prior to June 30, 1935:
(State Board of Registration for Land Surveyors; Rule 5, Sec 3; filed Feb 29, 1980, 3:40 p.m.: 3 IR 631; filed Jul 24, 1989, 5:00 p.m.: 12 IR 2285; filed Oct 13, 1992, 5:00 p.m.: 16 IR 878; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) **NOTE: 864 IAC 1.1-5-3 was renumbered by Legislative Services Agency as 865 IAC 1-5-2.**

SECTION 12. 865 IAC 1-7-1 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-7-1 Design and contents of seal

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 1. (a) The land surveyor seal shall be not less than one and five-eighths (1⁵/₈) inches or more than one and seven-eighths (1⁷/₈) inches in outside diameter, using the following design:



- (b) The seal may:
(1) be:
(A) embossed;
(B) **stamped**; or
(C) **electronically** applied; **by a rubber stamp** in conformance with the design as shown in subsection (a); **The seal may and**
(2) have:
(A) a milled edge, as shown; or

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(B) two (2) concentric circles with the outer and inner circles corresponding with the respective edges of the milling.

(c) The name and registration number of the registrant inscribed on the seal shall correspond to the name and certificate number inscribed on the certificate of registration. (*State Board of Registration for Land Surveyors; Rule 7, Sec 2; filed Feb 29, 1980, 3:40 p.m.: 3 IR 632; filed Oct 17, 1986, 2:20 p.m.: 10 IR 441; filed Oct 13, 1992, 5:00 p.m.: 16 IR 878; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) NOTE: 864 IAC 1.1-7-2 was renumbered by Legislative Services Agency as 865 IAC 1-7-1.

SECTION 13. 865 IAC 1-7-2 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-7-2 Application of seal; signature

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 2. (a) The seal shall be affixed to documents and instruments only:

(1) during the time the certificate of registration:

(A) is current; and

(B) has not been suspended or revoked; and ~~then only~~

(2) on ~~such~~ documents and instruments ~~which that~~ have been created by the:

(A) registrant; or ~~by the~~

(B) regularly employed and directly supervised subordinates of the registrant.

The registrant shall be responsible for seeing that the seal, however affixed, shall be legible on the document.

(b) Whenever a registrant affixes the seal, it shall have ~~the:~~

(1) ~~the~~ registrant's signature; and

(2) ~~the~~ date the seal is being affixed;

directly adjacent to, ~~the seal~~; but not across, the seal.

(c) As an alternative to placing the items required by subsection (b) directly adjacent to the seal, the items may be at another location on the sheet provided the sheet is ~~inscribed as "This document is otherwise properly certified. by _____"~~.

(d) When a registrant is in responsible charge of land surveying work for which one (1) or more:

(1) specifications;

(2) plans; and

(3) drawings;

are required to be submitted for review by ~~the state building commissioner or other~~ a governmental body, the registrant shall apply the seal in the full manner required by this section on each page of all drawings or plans and on the title page of all specifications.

(e) A registrant who is not in responsible charge of the entire

work, but assumes responsibility for portions of the work included on any page of:

(1) specifications;

(2) plans; or

(3) drawings;

shall affix the seal in the manner required by this section on all title pages and on all pages on which the registrant's work appears.

(f) When affixing the seal under the requirements of subsection (e), the registrant shall denote the registrant's part of the work by inserting below the registrant's signature and date, the following:

COVERING _____ DESIGN.

(*State Board of Registration for Land Surveyors; Rule 7, Sec 3; filed Feb 29, 1980, 3:40 p.m.: 3 IR 632; filed Oct 17, 1986, 2:20 p.m.: 10 IR 441; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1903; filed Oct 13, 1992, 5:00 p.m.: 16 IR 879; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) NOTE: 864 IAC 1.1-7-3 was renumbered by Legislative Services Agency as 865 IAC 1-7-2.

SECTION 14. 865 IAC 1-7-3 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-7-3 Use of seal and signature; acceptance of full responsibility

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 3. (a) The seal and signature of a registrant on any drawings, documents, or instruments signifies the registrant's acceptance of full responsibility for the professional work represented thereon, except as another registrant shall have assumed a limited responsibility for portions of the work in accordance with ~~of~~ section 2(e) of this rule.

(b) A registrant may include in the registrant's plans certain products that have become established as acceptable for the proposed use when ~~such the~~ items:

(1) meet standards established by nonprofit trade organizations;

(2) meet the requirements for the proposed use as indicated by tests performed by a competent, unbiased testing agency;

(3) are mechanical or other types of machinery or systems guaranteed by a reputable manufacturer; or

(4) do not affect the ~~structural~~ safety of the project.

(*State Board of Registration for Land Surveyors; Rule 7, Sec 4; filed Feb 29, 1980, 3:40 p.m.: 3 IR 633; filed Oct 13, 1992, 5:00 p.m.: 16 IR 879; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1882*) NOTE: 864 IAC 1.1-7-4 was renumbered by Legislative Services Agency as 865 IAC 1-7-3.

SECTION 15. 865 IAC 1-7-4 IS ADDED TO READ AS FOLLOWS:

865 IAC 1-7-4 Use of electronic or digital signatures

Authority: IC 25-21.5-2-14
 Affected: IC 25-21.5

Sec. 4. (a) This section establishes the requirements for the use of seals and signatures in electronic transactions.

(b) The following definitions apply throughout this section:

(1) "Document" means a:

- (A) report;
- (B) specification;
- (C) drawing;
- (D) plan; or
- (E) plat;

in physical form pertaining to land surveying that requires certification by a registered land surveyor by application of a seal or stamp, a signature, and a date.

(2) "Electronic document" means an electronic data file that is capable of being:

- (A) viewed by use of a computer and video monitor; or
- (B) converted into a document by use of a computer and printer or plotter.

(3) "Electronic seal" means a digital facsimile of an original seal.

(4) "Electronic signature" means a digital signature associated with an electronic document that shall carry the same:

- (A) weight;
- (B) authority; and
- (C) effect;

as an original signature.

(5) "Electronic transmission" means the transmission of electronic data files from one (1) computer to another. The term includes the manual delivery of electronic data storage media from one (1) person or entity to another.

(6) "Original seal" means:

- (A) a rubber stamp;
- (B) an electronic stamp; or
- (C) an embossing seal;

meeting the design requirements set out in section 1 of this rule.

(7) "Original signature" means the signature of a registrant affixed to a document in accordance with section 2 of this rule.

(8) "Registrant" has the meaning set forth in 865 IAC 1-1-1(a)(7).

(9) "Signature" means either:

- (A) original; or
- (B) electronic;

signature.

(c) An electronic signature and seal shall be permitted in place of an original seal and signature when the following criteria are met:

(1) The electronic signature and seal are as follows:

(A) The unique identification of the registrant.

(B) Verifiable.

(C) Attached to or associated with the electronic document in such a manner that is clear to the recipient that they represent the signature and seal of the registered land surveyor.

(2) The electronic signature is under the registrant's direct control.

(3) The registrant maintains a permanent digital copy of the electronically transmitted document for future verification purposes.

(d) A registrant may electronically transmit an electronic document without affixing an electronic signature provided there is inserted the following language instead of an image of a seal, signature, and date:

(A) "Not a Certified Document"; or

(B) "Pro Forma Survey";

as appropriate. This language shall not be required for documents electronically transmitted to a commercial printer or blueprint service for the purpose of reproducing documents or to the registrant's own employer or employees. (*State Board of Registration for Land Surveyors; 865 IAC 1-7-4*)

SECTION 16. 865 IAC 1-8-1 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-8-1 Renewal

Authority: IC 25-21.5-2-14
 Affected: IC 25-21.5

Sec. 1. (a) The board has adopted the following to clarify and implement the payment of renewal fees on a biennial basis:

(1) For purposes of biennial renewal, the postmark on the envelope containing the remittance will be considered the date of payment.

(2) When any required fees are not paid on time:

- (A) the certificate of registration becomes invalid;
- (B) the individual cannot lawfully practice or offer to practice land surveying; and
- (C) the individual's name will be deleted from future rosters;

until the renewal fee and required delinquent fee is are paid.

(b) A registered land surveyor applying for license renewal shall certify on the application that the registered land surveyor has complied with the continuing education requirements under 865 IAC 1-13.

(c) The board may require the following:

(1) Verification of any information submitted by the registered land surveyor. ~~and may require~~

(2) The registered land surveyor to submit evidence supporting the course credit claimed.

(*State Board of Registration for Land Surveyors; Rule 8, Sec 1;*)

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filed Feb 29, 1980, 3:40 p.m.: 3 IR 633; filed Oct 17, 1986, 2:20 p.m.: 10 IR 422; filed Oct 13, 1992, 5:00 p.m.: 16 IR 880; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1024; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-8-1 was renumbered by Legislative Services Agency as 865 IAC 1-8-1.

SECTION 17. 865 IAC 1-9-1 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-9-1 Publication and contents of rosters

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 1. In order to establish the time of publication of rosters in conjunction with the biennial collection of renewal fees, the board adopts the following:

- (1) As soon as practicable after the completion of the biennial renewals in each even-numbered year, the board will publish a roster showing the names and addresses of land surveyors who are valid registrants until the date shown in the roster.
- (2) It shall be the responsibility of each registrant to ~~keep~~ **notify** the board ~~advised of~~ **any change in** the registrant's ~~latest~~ **address or addresses** and ~~such any~~ supplementary roster information ~~if any, which that~~ is to be included in the roster. **The registrant shall maintain proof of the notification.**
- (3) **All land surveyors engaging in the practice of land surveying in the state of Indiana must identify on a form specified by the board the address of all offices at which the land surveyor is practicing land surveying.**

(State Board of Registration for Land Surveyors; Rule 9, Sec 1; filed Feb 29, 1980, 3:40 p.m.: 3 IR 634; filed Oct 17, 1986, 2:20 p.m.: 10 IR 442; filed Oct 13, 1992, 5:00 p.m.: 16 IR 880; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-9-1 was renumbered by Legislative Services Agency as 865 IAC 1-9-1.

SECTION 18. 865 IAC 1-10-12 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-10-12 Disclosure of conflict of interest

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 12. The land surveyor shall:

- (1) avoid all known conflicts of interest with an employer or client; ~~and shall or~~
- (2) promptly inform the employer or client of any business association, interest, or circumstances ~~which that~~ could influence judgment or quality of services.

(State Board of Registration for Land Surveyors; Rule 11, Sec 13; filed Feb 29, 1980, 3:40 p.m.: 3 IR 636; filed Oct 13, 1992, 5:00 p.m.: 16 IR 882; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-11-13 was renumbered by Legislative Services Agency as 865 IAC 1-10-12.

SECTION 19. 865 IAC 1-10-25 IS ADDED TO READ AS FOLLOWS:

865 IAC 1-10-25 Revocation or suspension of license in another jurisdiction; effect

Authority: IC 25-1-11; IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 25. The land surveyor shall notify the board, in writing, within thirty (30) days of any disciplinary action taken against the:

- (1) land surveyor; or
- (2) land surveyor's license or registration; **in any other state or jurisdiction.** *(State Board of Registration for Land Surveyors; 865 IAC 1-10-25)*

SECTION 20. 865 IAC 1-12-2 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-2 Definitions; abbreviations

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5-4-2

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "ALTA/ACSM Land Title Survey" refers to an original or retracement survey conducted in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys" as the requirements are adopted by the:

- (1) American Land Title Association;
- (2) National Society of Professional Surveyors; or
- (3) American Congress on Surveying and Mapping.

(~~b~~) (c) "Controlling monument" means any undisturbed artificial, physical, or record monument called for in a record plat or land title description and controls any combination of the:

- (1) location;
- (2) dimensions; ~~and or~~
- (3) configuration;

of the described tract.

(~~b~~) (d) "EDM" refers to electronic distance measurements.

(~~d~~) (e) "Land surveyor" means either of the following:

- (1) A registered land surveyor. ~~or~~
- (2) An individual who is as follows:
 - (A) An employee or subordinate of a registered land surveyor. ~~and~~
 - (B) Exempt from licensure under IC 25-21.5-4-2.

(~~e~~) (f) "Original survey" means a survey that is executed for the purpose of locating and describing real property that has not been previously described in documents conveying an interest

in ~~said~~ the real property.

(~~g~~) (g) “Registered land surveyor” means an individual who has been registered by the board in the profession of land surveying under IC 25-21.5.

(h) “**Relative positional accuracy**” means the value expressed in feet or meters that represents the uncertainty due to random errors in measurements in the location of any point on a survey relative to any point on the same survey at the ninety-five percent (95%) confidence level.

(~~g~~) (i) “Retracement survey” means a survey of real property that has been previously described in documents conveying an interest in ~~said~~ the real property.

(~~h~~) (j) “Right-of-way” means ~~that~~ land taken by either:
 (1) easements; or
 (2) fee simple title;
 for the linear routes identified in subsection (~~h~~): (k).

(~~h~~) (k) “Route survey” refers to surveys executed for the purpose of acquiring an interest in the tracts of land required for **the following**:
 (1) Highways.
 (2) Railroads.
 (3) Waterways.
 (4) Pipelines.
 (5) Electric lines. ~~or~~
 (6) Any other linear transportation or utility route.

~~h~~ **The term** does not include surveys executed for acquisition parcels that are of even width and immediately adjacent to an existing title, easement, or right-of-way line and do not require a property survey in order to prepare an accurate legal description for the parcel. Route surveys are not considered either original surveys or retracement surveys.

(~~h~~) (l) “Subdivision plat” means a plat of subdivision of land prepared in accordance with **either or both of the following**:
 (1) State plat statutes. ~~or~~
 (2) Local subdivision regulations. ~~or both~~.

(~~k~~) “Theoretical uncertainty” refers to theoretical uncertainty of measurements:

(~~h~~) “Theoretical uncertainty of measurements” means the radius of a circle, which circumscribes an area, that contains the probable true location of a specified point.

(m) “Theory of location” means applying:
 (1) federal laws, including 43 U.S.C. 751 through 43 U.S.C. 775;
 (2) state and local laws; ~~together with and~~
 (3) court precedent;
 to establish the position of real property corners.

(n) “~~tu~~” refers to theoretical uncertainty. (State Board of Registration for Land Surveyors; 865 IAC 1-12-2; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3909; errata filed Feb 5, 1990, 4:15 p.m.: 13 IR 1189; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2240; filed Oct 13, 1992, 5:00 p.m.: 16 IR 885; filed Oct 14, 1993, 5:00 p.m.: 17 IR 408; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1882) NOTE: 864 IAC 1.1-13-2 was renumbered by Legislative Services Agency as 865 IAC 1-12-2.

SECTION 21. 865 IAC 1-12-3 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-3 Surveyor responsibility

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5-4-2; IC 25-21.5-7-3

Sec. 3. (a) A registered land surveyor shall be personally responsible for planning and supervising the training, procedures, and daily activities of the nonregistered employees or subordinates involved in the surveys who are acting as exempt persons under IC 25-21.5-4-2. These activities will include, but not necessarily be limited to, the following:

- (1) Client contact.
- (2) Research.
- (3) Collection of field data.
- (4) Note reduction.
- (5) Computation.
- (6) Office analysis.
- (7) Drafting.
- (8) Preparation of certificates and reports.

(b) The daily activities by nonregistered employees or subordinates referred to in subsection (a) may not continue during any extended absences of the responsible registered land surveyor unless another registered land surveyor is in responsible charge during the land surveyor’s absence.

(c) The procedures followed and the decisions made by persons under the registered land surveyor’s supervision shall be regularly and systematically reviewed and approved by the registered land surveyor ~~prior to~~ **before** signing the survey plat.

(d) “Supervision”, as used in this section, shall be deemed to require **the following**:

- (1) Such control by the registered land surveyor that the registered land surveyor can certify that he or she:
 - (A) is knowledgeable of; and
 - (B) has reviewed and approved;
 all actions pertaining to the surveys by persons not licensed who have participated in the survey. ~~and~~
 - (2) That all persons participating in the survey shall be regular employees of:
 - (A) the registered land surveyor;
 - (B) the registered land surveyor’s employer; or

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(C) another registered land surveyor.

(e) In addition to the requirements in IC 25-21.5-7-3, each office of a firm, partnership, or corporation offering to perform land surveys must have a registered land surveyor in charge of the operations. ~~and that The~~ registered land surveyor ~~who~~ must:

(1) be a full-time employee of the firm, partnership, or corporation and:

(A) a principal of the partnership or firm; or

(B) an officer of the corporation; must

(2) have full responsible control of the survey operations; This registered land surveyor must and

(3) maintain regular hours at that office: adequate

(A) convenient for client contact; and

(B) adequate for employee supervision as defined in subsection (d).

(f) For purposes of this rule, an individual practices as a principal by being **as follows:**

(1) A registered land surveyor. ~~and~~

(2) The individual in charge of the organization's land surveying practice, either:

(A) alone; or

(B) with other registered land surveyors.

(g) A registered land surveyor shall not affix his or her seal on any surveying work unless **the:**

(1) ~~the~~ registered land surveyor personally did the surveying work;

(2) ~~the~~ surveying work was performed by:

(A) a nonregistered employee or subordinate following the requirements of subsection (a); or by

(B) the employees of another registered land surveyor as allowed by subsection (d); or

(3) ~~the~~ registered land surveyor is certifying additional survey work based on a survey:

(A) executed according to this rule; and

(B) certified by a registered land surveyor working on the same project.

(State Board of Registration for Land Surveyors; 865 IAC 1-12-3; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3909; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2240; filed Oct 13, 1992, 5:00 p.m.: 16 IR 886; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1883) NOTE: 864 IAC 1.1-13-3 was renumbered by Legislative Services Agency as 865 IAC 1-12-3.

SECTION 22. 865 IAC 1-12-4 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-4 Land surveyor duty to accumulate, preserve, and share data

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 4. A registered land surveyor shall do the following:

(1) Accumulate, through experience and research, information on the historical development of surveys in the geographical area in which the land surveyor practices.

(2) Accumulate:

(A) survey records;

(B) field notes;

(C) plats; and

(D) other data;

pertinent to the area of practice.

(3) Properly file and index for future reference those:

(A) field notes;

(B) computations;

(C) maps;

(D) plats;

(E) photographs; and

(F) other data;

accumulated during the survey.

(4) Provide for the long term preservation (maintenance) of the survey data. Filing of public records will partially meet this obligation. If possible, a registered land surveyor should make arrangements for the transfer of the land surveyor's records upon retirement or death.

(5) **If possible**, discuss the land surveyor's survey work confidentially with other registered land surveyors in the event of **substantive** conflicts or discrepancies revealed by the survey. These discussions must:

(A) not violate the registered land surveyor-client confidence; but must and

(B) be sufficient to discharge the registered land surveyor's obligations to the public and the profession.

(State Board of Registration for Land Surveyors; 865 IAC 1-12-4; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3910; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2241; filed Oct 13, 1992, 5:00 p.m.: 16 IR 887; filed Mar 6, 1995, 4:00 p.m.: 18 IR 1834; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-13-4 was renumbered by Legislative Services Agency as 865 IAC 1-12-4.

SECTION 23. 865 IAC 1-12-5 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-5 Property surveys affected

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 5. **All** retracement surveys and original surveys, **including all ALTA/ACSM Land Title Surveys**, and all updates **or recertifications** of previously completed surveys must fully comply with this rule except the following:

(1) Surveyor location reports as provided for in sections 27 through 29 of this rule are only subject to sections 1 through 4, 6, and 27 through 29 of this rule.

(2) Construction surveys made for the purpose of marking the limits of existing easements or rights-of-way for the construction of improvements within the easement or rights-of-way

must be executed by a registered land surveyor but are only subject to the provisions of sections 1 through 4 and 6 of this rule.

(3) Delineation or demarcation and placement of **stakes any monument or markers, for example, wood stakes, flags, and rebar**, for the purpose of constructing:

- (A) fences;
- (B) buildings;
- (C) walls; or
- (D) other improvements;

on or in close proximity to a land boundary ~~except for property corner monumentation~~, **must be executed by a registered land surveyor**, but are only subject to sections 1 through 4 and 6 of this rule provided the land surveyor has found acceptable evidence of the boundary location in accordance with this rule. **Any survey monuments or markers set in conjunction with a retracement or original survey must comply with all provisions of this rule.**

(State Board of Registration for Land Surveyors; 865 IAC 1-12-5; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2242; filed Oct 13, 1992, 5:00 p.m.: 16 IR 887; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1884) NOTE: 864 IAC 1.1-13-5.1 was renumbered by Legislative Services Agency as 865 IAC 1-12-5.

SECTION 24. 865 IAC 1-12-7 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-7 Measurements for retracement surveys, original surveys, and route surveys

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 7. (a) ~~When~~ **The purpose of this section is to prescribe precision and accuracy standards to be used by a land surveyor in conducting a original and retracement survey or an original survey**; the land surveyor shall be responsible to use the minimum standards of measurement provided for in this section. However, when platting laws set forth technical minimums for **original surveys and route surveys**, more stringent than those stated in this section, the more stringent standards shall be followed to the extent of the difference.

- (b) Measurements generally **The land surveyor shall be:**
- (1) obtained with a precision compatible with the type of survey involved and with the size and shape of the parcel involved;
 - (2) taken with a precision that is consistent with that required by the agreement with the client but may not be less precise than defined **select the appropriate equipment and methods and use trained personnel to assure that the acceptable relative positional accuracy specified in this section and is not exceeded.**
 - (3) shown on the plat with a number of significant figures representative of the precision of the work:

(c) The measurement specifications contained in subsection (d) will apply for all retracement surveys and original surveys.

(d) The following specifications shall be used for the location of property boundaries with respect to the referenced controlling corners:

Class of Survey	Theoretical Uncertainty (tu)
A	plus or minus .10 feet
B	plus or minus .25 feet
C	plus or minus .50 feet
D	plus or minus 1.00 feet
E	
all other surveys	to be negotiated with the client

(c) **The degree of precision and accuracy necessary for a survey shall be based upon the intended use of the real estate. If the client does not provide information regarding the intended use, the classification of the survey shall be based on the current use of the real estate.**

(e) The classes (d) **Classifications** of surveys listed in subsection (d) shall fall into the following sizes: **are as follows:**

- (1) Class A = Small area wherein dense monument controls exist, as in a downtown commercial area. Lots are typically fifty (50) feet by one hundred (100) feet. Periphery and beginning distance is less than four hundred (400) feet.
- (2) Class B = Longest side is typically under two hundred fifty (250) feet and periphery and beginning distance is less than one thousand (1,000) feet.
- (3) Class C = Longest side is typically under one thousand (1,000) feet and periphery and beginning distance is less than five thousand (5,000) feet.
- (4) Class D = All sides are typically over one thousand (1,000) feet and periphery and beginning distance is less than twelve thousand (12,000) feet.
- (5) Class E = The precision of larger surveys shall be negotiated with the client and shall be clearly stated on the plat of survey.

(1) **Urban surveys.** Urban surveys are performed on land lying within or contiguous with a city or town, except for single family residential lots. Urban surveys also include:

- (A) commercial and industrial properties;
- (B) condominiums;
- (C) townhouses;
- (D) apartments; and
- (E) other multiunit developments;

regardless of geographic location.

(2) **Suburban surveys.** Suburban surveys are performed on residential subdivisions lots. Surveys of single family residential lots shall be suburban surveys even if the lot is located in urban and rural areas.

(3) **Rural surveys.** Rural surveys are performed on real estate lying in rural areas that does not otherwise meet

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the definition of an urban or suburban survey.

(e) The acceptable relative positional accuracies for each classification of survey are as follows:

- (1) Urban surveys: 0.07 feet (21 millimeters) plus 50 parts per million.
- (2) Suburban surveys: 0.13 feet (40 millimeters) plus 100 parts per million.
- (3) Rural surveys: 0.26 feet (79 millimeters) plus 200 parts per million.

(f) Relative positional accuracy may be tested by:

- (1) comparing the relative location of points in a survey as measured by an independent survey of higher accuracy; or
- (2) the results of a minimally constrained, correctly weighted least square adjustment of the survey.

(State Board of Registration for Land Surveyors; 865 IAC 1-12-7; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3910; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2242; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1884)
NOTE: 864 IAC 1.1-13-7 was renumbered by Legislative Services Agency as 865 IAC 1-12-7.

SECTION 25. 865 IAC 1-12-9 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-9 Preliminary research and investigation on retracement surveys

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 9. When conducting a retracement survey, a land surveyor shall ~~do~~ **obtain** the following:

- (1) ~~Obtain~~ The record description of the:
 - (A) parcel to be surveyed; ~~as well as the record description of the and~~
 - (B) adjoining properties;to reveal any gaps or overlaps with the adjoining properties.
- (2) ~~Obtain~~ Copies of any recorded:
 - (A) subdivision plats; **and**
 - (B) surveys;that relate to the survey.
- (3) ~~Obtain~~ From public offices, copies of any:
 - (A) maps;
 - (B) documents; and
 - (C) field notes;that relate to the survey.
- (4) ~~Obtain~~ Copies of data that relate to the survey that are available from known private sources.

(State Board of Registration for Land Surveyors; 865 IAC 1-12-9; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3912; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2244; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1885)
NOTE: 864 IAC 1.1-13-9 was renumbered by Legislative

Services Agency as 865 IAC 1-12-9.

SECTION 26. 865 IAC 1-12-10 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-10 Field work for retracement and original surveys

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 10. When conducting a retracement **or original** survey, a land surveyor shall do the following:

- (1) Search for controlling physical monuments and, when found, weigh their reliability.
- (2) Search for and locate ~~monuments that:~~ **the following:**
 - (A) **Monuments that** reference missing control monuments. ~~and~~
 - (B) **Monuments that** substantiate control monuments that have been obliterated.
 - ~~(3) Search for and locate~~ (C) Other monuments and real evidence that are necessary to the survey.

~~(4)~~ **(3) If necessary:**

- (A) investigate possible parol evidence supporting the positions of obliterated control monuments; and
- (B) obtain the necessary affidavit or affidavits from individuals involved.

~~(5)~~ **(4) Obtain the following:**

- (A) Necessary measurements to correlate all found evidence, including the relationship to adjoining properties.
- ~~(6) Obtain~~ (B) Sufficient check measurements to satisfactorily verify the work.

~~(7)~~ **(5) Locate physical evidence of possession between adjoining make comments on possible age of possession; and verify identify age of possession, for example,** by parol evidence, if possible.

~~(8)~~ **(6) Survey field notes shall be in the form required by section 6 of this rule.**

(7) Any controlling corners that are original public land survey corners or other government corners, such as land grants, shall be:

- (A) evaluated;
- (B) perpetuated; and
- (C) documented;

in accordance with section 30 of this rule.

(State Board of Registration for Land Surveyors; 865 IAC 1-12-10; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3912; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2244; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1885)
NOTE: 864 IAC 1.1-13-10 was renumbered by Legislative Services Agency as 865 IAC 1-12-10.

SECTION 27. 865 IAC 1-12-12 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-12 Publication of retracement and original survey results

Authority: IC 25-21.5-2-14
Affected: IC 25-21.5

Sec. 12. (a) When conducting a retracement survey or an original survey, a registered land surveyor shall do the following:

(1) Furnish the client with a written surveyor's report that, in addition to other pertinent data, **identifies the type of survey**, explains the theory of location applied in establishing or retracing the lines and corners of the surveyed parcel, and gives the registered land surveyor's professional opinion of the cause and the amount of uncertainty in those lines and corners because of the following:

- (A) Availability and condition of reference monuments.
- (B) Occupation or possession lines.
- (C) Clarity or ambiguity of the record description used **and of adjoining's descriptions or both, and the relationship of the lines of the subject tract with adjoining's lines.**
- (D) ~~The theoretical uncertainty~~ **relative positional accuracy** of the measurements.

(2) Record the plat of survey and the associated surveyor's report in the county recorder's office in the county where the property is located when:

- (A) a new tax parcel will be created based on the survey;
- (B) a survey of:
 - (i) an unsubdivided tract; or
 - (ii) a portion of a subdivided lot;
 - has not been previously recorded;
- (C) if, in the registered land surveyor's opinion, a survey of a whole subdivided lot or lots is substantially at variance with:
 - (i) the subdivision plat;
 - (ii) previously recorded surveys;
 - (iii) monuments; or
 - (iv) evidence of possession;
- (D) if, in the registered land surveyor's opinion, the:
 - (i) monuments;
 - (ii) monument witnesses;
 - (iii) evidence of possession; or
 - (iv) description; ~~is~~

are not consistent with the last recorded survey of the parcel;

(E) it is required by law; ~~or~~

(F) the plat of survey contains **land for** a new subdivision plat that will subsequently be recorded. ~~and~~ **The subsequent subdivision plat** must be cross-referenced to the previously recorded survey plat; ~~or~~

(G) notwithstanding clause (C), an original, platting surveyor setting monuments in a new subdivision in accordance with section 18 of this rule does not need to prepare or record a plat of survey or surveyor's report unless the survey reveals substantial variance with the:

- (i) subdivision plat;
- (ii) existing monuments; or

(iii) evidence of possession.

(b) The recorded plat of survey shall:

- (1) show the name of the owner of the property on the recorded plat of survey according to the county tax records at the time the survey ~~is recorded~~ **was certified**; and ~~shall~~
- (2) be cross-referenced to the latest record plat of survey of the property, if any is found.

(c) The plat of survey and the associated surveyor's report shall be recorded **in the case of**:

- (1) ~~in the case of~~ an original or retracement survey (not previously recorded) that contains a proposed new subdivision plat, ~~prior to before~~ recording the new subdivision plat; or
- (2) ~~in the case of~~ retracement or original surveys not described in subdivision (1), **within**:

- (A) ~~within~~ three (3) months of the survey certification date; or
- (B) ~~within~~ three (3) years and three (3) months of the survey certification date in those instances where the client signs an objection, which must contain the following statement:

"I, the undersigned, hereby request that the following identified survey, certified to me":

(Indicate one (1) or both of the following:)

- (i) Shall not be recorded for a period of three (3) years and three (3) months from the date of certification.
- (ii) Shall not contain the name of the undersigned client on the survey recorded.

Signed: _____

Date: _____

Certifying Surveyor:

Certificate Date:

Job Number:

Brief Description:

A copy of the signed statement shall be kept with the land surveyor's file.

(d) Nothing ~~contained~~ in this rule shall:

- (1) require the registered land surveyor to:
 - (A) furnish any survey documents to the client; or
 - (B) record them;

unless the client has satisfied the terms of the surveying engagement; ~~or~~

~~(e) Nothing contained in this rule shall~~ (2) prevent the registered land surveyor from furnishing a pro forma copy of the survey to the client for use until the certified survey is requested provided the survey is clearly marked "PRO FORMA SURVEY".

(e) Any drawings or plats prepared by a registered land surveyor, such as:

- (1) plot plans;
- (2) deed plots;

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- (3) topographic maps;
- (4) site plans; or
- (5) construction plans;

that are not intended to be retracement or original surveys, route surveys, or surveyor location reports, shall contain a note stating "This drawing is not intended to be represented as a retracement or original boundary survey, a route survey, or a Surveyor Location Report.". Any drawing or plat showing found or set monumentation is considered to be an original, retracement, or route survey and as such is subject to the applicable sections of this rule. (State Board of Registration for Land Surveyors; 865 IAC 1-12-12; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3912; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2245; filed Oct 13, 1992, 5:00 p.m.: 16 IR 889; errata, 16 IR 1188; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1886) NOTE: 864 IAC 1.1-13-12 was renumbered by Legislative Services Agency as 865 IAC 1-12-12.

SECTION 28. 865 IAC 1-12-13 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-13 Retracement and original survey plats

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5; IC 32-19

Sec. 13. (a) When conducting a retracement or original survey, a registered land surveyor shall furnish the client with the surveyor's report and a copy of the plat of survey of the premises drawn to an appropriate scale in such a manner that the data shown will be clearly legible when the plat is reduced to sheets suitable for recording that are no larger than eleven (11) inches by seventeen (17) inches and no smaller than eight and one-half (8 ½) inches by eleven (11) inches: in the county in which the survey was conducted.

(b) The plat of survey, together with the accompanying surveyor's report, shall show or otherwise contain the following information at a minimum:

(1) The:

- (A) client's name;
- (B) date of the last fieldwork;
- (C) surveyor's file number; and
- (D) the:
 - (i) name;
 - (ii) address;
 - (iii) signature; and
 - (iv) registration number;

of the surveyor responsible for the work.

(2) For retracement surveys:

- (A) the record document description or recording information of the parcel surveyed; and
- (B) any new, modified, or consolidation description with an explanation in the surveyor's report as to why the new description was done; prepared, together with a statement

regarding the location of the new description relative to the record description. If necessary to define the location, a vicinity map shall be provided.

For original surveys, a metes and bounds description with appropriate controlling calls and calling for and accurately describing controlling physical monuments, marked in accordance with section 18 of this rule, except, however, that a metes and bounds description is not required for individual, platted subdivision lots.

- (3) North arrow, area, and scale, including a graphic scale.
- (4) Angles or bearings. When bearings are shown, their basis shall be indicated.
- (5) All pertinent dimensions. On dimensions other than those measured, sufficient notations shall be used to identify their source, such as the following:

(A) Recorded measurement (Rec).

(B) Calculated from record values (Calc. Rec.).

(6) All pertinent monuments, with a notation indicating which were found and which were set, including those required to be set by section 18 of this rule, identified as to:

(A) their character;

(B) their size; and

(C) their location including their location relative to the surface of the ground; and

(D) whether or not they were held as control of the survey.

Found monuments shall be accompanied by a reference to their origin when it is known. Where there is no available documented reference, origin, it shall be so noted on the plat.

(7) The location of all monuments and physical evidence of possession on or beyond the surveyed premises on which establishment of the corners of the surveyed premises are dependent. This includes monuments on all controlling corners or lines appropriate to the description of the tract being surveyed, but in no case shall the survey show fewer than two (2) monumented corners regardless of the description of the tract. The Indiana state plane coordinate system may be used as the basis for a survey in accordance with IC 32-19; however, such use does not relieve the registered land surveyor of applying proper theory of location.

(8) Any physical evidence of possession appurtenant to either the surveyed premises or the adjoining property that is on, near, or across any exterior boundary of the premises. or depicted interior. Show the location by the shortest distance to such line. Any setback or easement line on the premises that may have been a factor in the location of such a boundary line. Show the location by the shortest distance to such line. Failure to show any such evidence will be taken to indicate that there was none.

(9) Any:

(A) lakes;

(B) streams;

(C) known regulated drains; or

(D) regulated drain rights-of-way; on or within seventy-five (75) feet of the surveyed premises. A detailed location, based on applicable statutes and rules, is required when a boundary or easement is determined thereby.

(10) Any evidence of use of the surveyed premises by others.

(11) Adjoining parcels identified by title description or record reference. ~~Map delineation must be such that Contiguity, gaps, and overlaps with adjoining parcels are shall be clearly shown and dimensioned.~~ Show only the portion of adjoining tracts relevant to the location of the surveyed tract. ~~Gaps and overlaps on the perimeter of the survey shall be dimensioned.~~ Gaps and overlaps interior to the surveyed parcel shall be depicted but must be dimensioned only if the client requests.

(12) Any easements or setback lines affecting the survey that were created by a subdivision plat. ~~unless they are omitted at the request of the client. It must be noted on the plat of survey if they are omitted for this reason.~~

(13) Any other easements or setback lines affecting the survey, as required and when documentation is furnished by the client.

(14) ~~If requested by the client, show zoning ordinance classification references. according to documentation provided by the client.~~ Any other zoning use certifications shall be limited to those facts that can be counted or measured.

(15) **The following:**

- (A) Sufficient data to clearly indicate the theory of location applied in finalizing the locations of the corners.
- (B) Any data at variance with this theory of location. ~~and~~
- (C) Sufficient data to allow the retracement without difficulty of all pertinent lines and corners shown on the plat.

Detail that cannot be legibly depicted on the survey plat shall be otherwise explained in the surveyor's report.

(16) A certificate stating that the survey was performed wholly or in part (state which part) by or under the direction of the registered land surveyor, and to the best of the registered land surveyor's knowledge and belief was executed according to survey requirements in this rule. This certificate shall bear the:

- (A) signature;
- (B) registration number; and
- (C) seal;

of the registered land surveyor and date of the certificate.

(17) If necessary to define the location, a vicinity map shall be provided.

(c) Notwithstanding the requirements of this rule, except for section 18 of this rule, any new subdivision plat may show only the information required by the applicable subdivision control ordinance or other regulation.

(d) Any new subdivision plat recorded must be cross-referenced to a previously recorded survey, which conforms to this rule, of the tract that contains it.

(e) The certificate for a new subdivision must state that there has been no change from the matters of survey revealed by the cross-referenced survey, or any prior subdivision plats contained therein, on any lines that are common with the new subdivision. A new survey, which conforms to this rule, must be executed and recorded if there have been changes in matters of survey from those revealed by the prior recorded survey or any subdivision plats therein on any lines common with a new subdivision. (State Board of Registration for Land Surveyors; 865 IAC 1-12-13; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3913; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2246; filed Oct 13, 1992, 5:00 p.m.: 16 IR 889; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1887) *NOTE: 864 IAC 1.1-13-13 was renumbered by Legislative Services Agency as 865 IAC 1-12-13.*

SECTION 29. 865 IAC 1-12-14 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-14 Original survey preliminary research

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 14. When conducting an original survey, a land surveyor shall do the following:

(1) Obtain or prepare the documents establishing the intended position of the lines to be created by the original survey, such as **any of the following:**

- (A) The client's ~~approved~~ sketch.
- (B) Instructions defining the lines. ~~and~~
- (C) A tentative subdivision map.

(2) Obtain copies of the laws regulating division of property that govern in the ~~area~~ **jurisdiction** in which the property is located.

(3) Survey ~~that portion of the parent tract required to define the lines of the parcel upon which being created by the original survey. is to be based; or such portion thereof as is relevant to the proposed work.~~ This work must be in accordance with ~~section 13~~ **of this rule**. Any conflicts or gaps between the lines of the retracement survey and the adjoiners lines that affect newly created tracts must be clearly depicted on the original survey, showing which of the new tracts are affected and to what extent.

(4) Conduct field surveys to determine the location of planimetric or topographic features, **if any**, that are to control the intended position of the lines being created.

(5) In the case of new subdivisions or original surveys, the registered land surveyor shall inform the client of any conflicts between the following:

- (A) The requested position of the lot lines to be created.
- (B) The position required by any applicable ordinances or regulations.

These conflicts must be resolved before certifying the survey, or, if they are not, the conflicts shall be noted on

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the face of the plat or in the surveyor's report.

(State Board of Registration for Land Surveyors; 865 IAC 1-12-14; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3914; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2247; filed Oct 13, 1992, 5:00 p.m.: 16 IR 890; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1888) NOTE: 864 IAC 1.1-13-15 was renumbered by Legislative Services Agency as 865 IAC 1-12-14.

SECTION 30. 865 IAC 1-12-18 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-18 Original and retracement survey monumentation

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 18. (a) When conducting a retracement survey or an original survey, a registered land surveyor shall be responsible to set monuments in accordance with ~~the following:~~ **this section.**

~~(1)~~ **(b)** Except as provided in subsection ~~(a)(7);~~ **(h)**, a monument, as defined in subsections ~~(a)(2) (c) through (a)(6);~~ **(g)**, shall be set at every lot or parcel corner being surveyed, including the interior lots of a subdivision. Corners to be set include the beginning and end of curves and the intersection of lines except where the setting of a monument near another monument would cause confusion. Further, a monument is not required to be set if there is an existing monument at the corner that is within the limits of ~~theoretical uncertainty~~ **the relative positional accuracy** for the class of survey being performed.

~~(2)~~ **(c)** Monuments set in unpaved **or other nonimpervious** locations shall be five-eighths ($\frac{5}{8}$) inch diameter or larger iron or steel rods, reinforcement bars, or galvanized pipes weighing a minimum of one (1) pound per foot and being at least twenty-four (24) inches long and set with not less than eighteen (18) inches below grade. **As follows**, other monuments may be used if they:

- (1)** Are made of material of similar or greater durability, size, and character. ~~and~~
- (2)** Can be found by a device capable of detecting ferrous or magnetic objects.

~~(3)~~ **(d)** Where practical, monuments in pavement **or other impervious areas** shall be set according to the requirements contained in subsection ~~(a)(2);~~ **(c)**. However, when it is not practical to set a monument in accordance with subsection ~~(a)(2);~~ **(c)**, then a two (2) inch or longer, one-fourth ($\frac{1}{4}$) inch or larger diameter, magnetic concrete nail, or similar magnetic monument, shall be set, **if possible**.

~~(4)~~ **(e)** Monuments set under subsection ~~(a)(2) (c) or (a)(3)~~ **(d)** shall have a substantial plastic or metal tag or cap permanently affixed showing the registered land surveyor's surname

and professional license number or board-issued firm/agency identification number.

~~(5)~~ **(f)** Where monuments as defined in subsection ~~(a)(2) (c) or (a)(3)~~ **(d)** cannot be set, the survey points must be:

- (1)** marked by:
 - (A)** a drill hole;
 - (B)** a cut cross;
 - (C)** a notch; or
 - (D)** other similar permanent mark; and
- (2)** referenced to any nearby witness monuments or permanent objects, such as:
 - (A)** building foundations; or
 - (B)** concrete head walls.

~~(6)~~ **(g)** Monuments required by local ordinances shall be set provided they meet or exceed the requirements in subsections ~~(a)(2) (c) and (a)(3);~~ **(d)**.

~~(7) Except at interior lot corners not adjoining a street right-of-way line;~~ **(h)** Where it is not possible or practical to set a monument at the survey point: ~~then~~

- (1)** a monument shall be offset; and
- (2)** the location shall be selected so that the monument lies on a:
 - (A)** line of the survey; or ~~on a~~
 - (B)** prolongation of ~~such~~ **the** line.

However, offset monuments are not required at interior lot corners not adjoining a street right-of-way. Offset monuments shall be identified as such on the plat and, if possible, in the field. However, if existing monuments fall within the ~~theoretical uncertainty~~ **acceptable relative positional accuracy** of the survey, a monument will not be required to be set.

~~(8)~~ **(i)** If recovery of the monument would be difficult due to the topography or other features of the land, the monuments shall be witnessed or referenced in such a manner that will facilitate their recovery.

~~(9)~~ **(j)** **At the time they are set**, monuments shall be marked, such as **with** ribbon, paint, or lath, to facilitate the recovery of the monument by the client.

~~(10)~~ **(k)** It shall be the responsibility of the land surveyor certifying the subdivision plat to set all monuments required by this section in a new subdivision.

~~(b)~~ **(l)** Monuments shall be set ~~prior to~~ **before** providing the client with the survey documents required by this rule. However, in the case of new subdivisions where, in the opinion of the surveyor, it is probable the individual lot monuments will be disturbed by construction, only the perimeter of the subdivision, or section thereof, must be monumented ~~prior to~~ **before** recordation. In this situation, the setting of the individual lot monuments may be delayed until no later than:

- (1) after construction is complete (including buildings); or

(2) two (2) years after recordation of the subdivision plat or, if the subdivision is platted by sections, after recordation of each section; whichever occurs first. In new subdivisions, if monuments are to be set ~~prior to~~ **before** recording, then the placement of monuments shall be shown on the subdivision plat. If monuments are to be set after construction is complete, the surveyor shall record an affidavit, cross-referenced to the recorded plat, showing which monuments were set and which were found, the dates the monuments were set or found, together with a certification that states to the best of the surveyor's knowledge and belief the information contained in the affidavit is true and correct. Nothing in this subsection shall be construed to require the surveyor to wait until construction is completed to place monuments.

(~~e~~) **(m)** A surveyor is not required to replace or restore any monument that the surveyor has set that has been:
(1) moved;
(2) disturbed; or
(3) destroyed;
 after its original placement for the current survey.

(~~d~~) **(n)** Identification numbers, other than registered land surveyor's registration numbers, used by a land surveying firm or government agency under subsection (~~a~~)(~~2~~) **(c)** or (~~a~~)(~~3~~) **(d)** must be assigned and authorized for use by the state board. ~~of registration for land surveyors upon written request.~~ Request for firm or agency numbers must be in writing on forms provided by the board. (*State Board of Registration for Land Surveyors; 865 IAC 1-12-18; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3914; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2248; filed Oct 13, 1992, 5:00 p.m.: 16 IR 891; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1888*) *NOTE: 864 IAC 1.1-13-19 was renumbered by Legislative Services Agency as 865 IAC 1-12-18.*

SECTION 31. 865 IAC 1-12-20 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-20 Route survey preliminary research
 Authority: IC 25-21.5-2-14
 Affected: IC 25-21.5

Sec. 20. **(a)** When conducting a route survey, a registered land surveyor shall do the following:
 (1) Obtain or prepare the documents establishing the intended position of the lines to be created by the survey, for example, **the following:**
(A) The client's approved sketch. ~~and~~
(B) Instructions defining the lines.
 (2) Obtain **the following:**
(A) Copies of the laws that affect route surveys in the area in which the property is located.
~~(3) Obtain~~ **(B)** From:
(i) the client, or other sources, the record description of

the affected parcel or parcels;
~~(4) Obtain from~~ **(ii)** the county recorder's office, copies of any **recorded subdivision plats and surveys** affected by **or relating to** the survey; **and**
~~(5) Obtain from~~ **(iii)** other public offices, copies of any maps, documents, and field notes that relate to the survey.

(b) Client specifications may set forth technical minimums for route surveys more stringent than those stated in this section. (*State Board of Registration for Land Surveyors; 865 IAC 1-12-20; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2250; filed Oct 13, 1992, 5:00 p.m.: 16 IR 893; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) *NOTE: 864 IAC 1.1-13-35 was renumbered by Legislative Services Agency as 865 IAC 1-12-20.*

SECTION 32. 865 IAC 1-12-21 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-21 Route survey fieldwork
 Authority: IC 25-21.5-2-14
 Affected: IC 25-21.5

Sec. 21. When conducting a route survey, a land surveyor shall do the following:

- (1) Establish **the location of the control survey** points upon which ~~the all subsequent work is~~ **will be based so that they can be retraced and are recoverable by other surveyors without difficulty during and after construction.**
- (2) Determine the location of ~~planimetric or topographic features that are to control the intended position of the survey control and parcel acquisition lines being created;~~ **the location of following:**
 - (A)** Any lines ~~and/or~~ **or** corners, **or both**, necessary to ~~locate said~~ **describe any** acquisition parcels. ~~and the location of~~
 - (B)** Any United States Public Land Survey subdivision corners that are **available from the county surveyor or** reasonably accessible ~~on both sides of~~ **and relevant to the route survey control line or acquisition parcels, or both.**
- (3) Set any final monuments required by section 24 of this rule ~~plus~~ **and** those required by the client.
- (4) Take sufficient check measurements to satisfactorily verify the work.
- (5) Keep survey field notes showing all pertinent information, measurements, and observations made in the field during the course of a survey in a manner that is clear to other land surveyors who may use the information so recorded.
- (6) Make necessary computations to substantiate correctness of field measurements.

(*State Board of Registration for Land Surveyors; 865 IAC 1-12-21; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2250; filed Oct 13, 1992, 5:00 p.m.: 16 IR 893; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) *NOTE: 864 IAC 1.1-13-36 was renumbered by Legislative Services Agency as 865 IAC 1-12-21.*

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SECTION 33. 865 IAC 1-12-22 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-22 Measurements for route surveys

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 22. (a) When conducting a route survey, the land surveyor shall be responsible to use the minimum standards of measurement **for urban surveys** provided for in this section. Laws affecting route surveys or client specifications may set forth technical minimums for section 7 of this rule, except that **relative positional accuracy may not exceed five-tenths (0.5) feet for a route surveys more stringent than those stated in this section: survey.**

(b) Measurements generally shall be shown on the route survey plat with a number of significant figures representative of the precision of the work.

(c) The measurements specifications contained in subsection ~~(d)~~ **outlined in this section** will apply to all of the following items shown on a route survey:

- (1) The ~~controlling control~~ survey line: **points.**
- (2) Survey ties to **either of the following:**
 - (A) The nearest United States Public Land Survey subdivision corners that are reasonably accessible on both sides of the controlling survey line. ~~or~~
 - (B) Monuments with established state plane coordinates.
- (3) All monuments **and** reference monuments and any ties thereto that are set relative to the controlling survey line.

~~(d)~~ The following measurement specifications shall apply to all route surveys:

- (1) All angles shall be based upon the mean of two (2) direct and two (2) reverse position readings of the instrument telescope.
- (2) The instrument must have a direct (not estimated) angular reading capability as follows:
 - (A) Twenty (20) seconds of arc for micrometer reading theodolites.
 - (B) One (1) minute of arc for scale reading theodolites.
 - (C) Ten (10) seconds of arc for electronic theodolites.
- (3) The instrument must have the capability of allowing an estimated reading as follows:
 - (A) Ten (10) seconds of arc for micrometer reading theodolites.
 - (B) One-tenth (0.1) of a minute of arc for scale reading theodolites ~~N.A.~~ for electronic theodolites.
- (4) Any angle which exceeds the mean by more than the following amount must be rejected and the set of angles remeasured:
 - (A) Ten (10) seconds of arc for micrometer reading theodolites.
 - (B) Two-tenths (0.2) of a minute of arc for scale reading theodolites.

- ~~(C)~~ Ten (10) seconds of arc for electronic theodolites.
- (5) All distance measurements must be made with a properly calibrated EDM or steel tape, applying atmospheric, temperature, sag, tension, slope, scale factor, and sea level corrections, as necessary.
- (6) Distance measurements to be used in computing accuracy or closure for those items in subsection (c) cannot be less than the following amounts:
 - (A) Fifty-four (54) meters for an EDM having an error of five (5) millimeters per manufacturer's specifications independent of distance.
 - (B) One hundred two (102) meters of an EDM having an error of ten (10) millimeters per manufacturer's specifications independent of distance.
 - (C) Fourteen (14) meters for calibrated steel tape.
- (7) If a closed loop is run, the angular and linear closures must comply with the following requirements:
 - (A) Fifteen (15) seconds of arc are times for maximum angular closure error; where N is the number of stations.
 - (B) 1:10,000 for minimum linear error of closure precision ratio after angles are balanced and closure is calculated.

~~(e)~~ The use of a more precise instrument does not change any of the specifications contained in subsection (d), such as number of angles turned:

(d) If route survey references or is based on state plane coordinates or utilizes the global positioning system (GPS), the written surveyor's report shall identify the following:

- (1) The datum and projection.
- (2) The year of applicable datum adjustment.
- (3) The originating or controlling monuments.
- (4) The GPS base stations or positioning software used, for example, the following:
 - (A) The Online Positioning User Service (OPUS).
 - (B) The source and format of the corrections if real time kinematic GPS was used.
 - (C) The Geoid model used, if applicable.
- (5) The scale, elevation, and combination factors used in the coordinate calculations.
- (6) Information on any translation to or from a local system.
- (7) The collection processes and methodology of final positioning.
- (8) Whether the distances shown are grid or ground.

(State Board of Registration for Land Surveyors; 865 IAC 1-12-22; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2250; filed Oct 13, 1992, 5:00 p.m.: 16 IR 893; errata, 21 IR 4537; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-13-37 was renumbered by Legislative Services Agency as 865 IAC 1-12-22.

SECTION 34. 865 IAC 1-12-23 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-23 Publication of route survey results

Authority: IC 25-21.5-2-14
 Affected: IC 25-21.5

Sec. 23. (a) When conducting a route survey, a registered land surveyor shall do the following:

(1) Furnish the client with **the following**:

- (A) Copies of the route survey plats.
- ~~(2) Furnish the client with (B)~~ A written surveyor's report ~~which, that,~~ in addition to other pertinent data, gives the registered land surveyor's professional opinion of the cause and the amount of uncertainty in the lines and corners found or established by the survey because of any of the following:

~~(A) (i)~~ Availability and condition of referenced monuments.

~~(B) (ii)~~ Occupation or possession lines.

~~(3) (2)~~ Record the route survey plat and any subsequent revisions as defined in section 25 of this rule, together with the associated surveyor's report defined in this subsection, in the files of the county recorder's office in the county where the property is located on or before the date of acquisition of any tracts relative to the plat.

(b) An accurate description for all parcels to be acquired shall be furnished to the client. ~~The description~~ **Descriptions may be by metes and bounds but, in any case, shall be controlled by a call for all that part of the owner's land which that** lies within the total acquisition tract. The acquisition tract or tracts shall be depicted on, or described ~~relative by reference to:~~

- (1) the recorded plat of route survey; or
- (2) any subsequent recorded revisions of the recorded plat of route survey; ~~which~~

~~that contain said the land.~~ **The lines of the acquisition tracts and any proposed right-of-way lines shall be tied to the initial control survey points.** (*State Board of Registration for Land Surveyors; 865 IAC 1-12-23; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2251; filed Oct 13, 1992, 5:00 p.m.: 16 IR 894; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) *NOTE: 864 IAC 1.1-13-38 was renumbered by Legislative Services Agency as 865 IAC 1-12-23.*

SECTION 35. 865 IAC 1-12-24 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-24 Route survey monumentation

Authority: IC 25-21.5-2-14
 Affected: IC 25-21.5

Sec. 24. (a) When conducting a route survey, a registered land surveyor shall be responsible to set monuments in accordance with the following:

(1) Controlling survey lines ~~which that~~ are to be shown on the route survey plat shall be monumented at:

- (A) each angle point; and ~~at~~
- (B) intervals that typically do not exceed ~~one thousand~~

~~(1,000) feet: one-quarter (1/4) mile.~~

~~(2) The monuments shall be of a type and character, and set in a manner providing a degree or permanency, consistent with the terrain, physical features, intended use, and character of the point being marked.~~

~~(2) Section 18(c) through 18(f) of this rule.~~

~~(3) Monuments set in unpaved locations shall be five-eighths (5/8) inch diameter or larger iron or steel rebars or pipes weighing a minimum of one (1) pound per foot and being at least twenty-four (24) inches long. Other monuments may be used if they are made of material of similar durability which includes an element that can be found by a device capable of detecting ferrous or magnetic objects. Such monuments shall have a substantial plastic or metal cap permanently affixed thereto showing the registered land surveyor's professional license number and/or the name or identification number of the land surveying firm or government agency.~~

~~(4) Where practical, monuments in paved locations shall be set according to the requirements contained in subdivision (3).~~

~~(5) Survey points, where monuments as defined in subdivision (3) or (4) cannot readily be set, must be marked by a drill hole; cut cross; notch; railroad spike; or similar permanent mark and referenced to any nearby witness monuments or permanent objects such as building foundations or concrete head walls.~~

~~(6) (3) Any comparable or better monuments required by more stringent local ordinances shall be set.~~

~~(7) (4) Monuments shall be referenced in such a manner that will facilitate recovery of the monuments. A minimum of three (3) permanent points referencing each controlling survey line monument shall be established, preferably at locations outside the planned construction area.~~

~~(8) (5) All monuments shown on the recorded route survey plat that are reset by an Indiana land surveyor must be reset according to the rules used for the original monuments. A survey plat of this resurvey shall be:~~

~~(A) recorded in the office of the county recorder where the resurvey was done within ninety (90) days of survey certification; and shall be~~

~~(B) cross-referenced to the original route survey plat.~~

~~(9) (6) At the time they are set, monuments shall be marked, for example, with:~~

- ~~(A) ribbon;~~
- ~~(B) paint; or~~
- ~~(C) lath;~~

~~to facilitate the recovery of the monuments by the client.~~

~~(b) Subsection (a)(3) through (a)(4) shall apply only to monuments set after December 31, 1991.~~

~~(c) (b) Any identification numbers, other than the registration number of the registered land surveyor, used by a land surveying firm or government agency under subsection (a)(3) section 18(d) or (a)(4) 18(e) of this rule must be assigned and autho-~~

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rized for use by the state board of registration for land surveyors upon written request. (*State Board of Registration for Land Surveyors; 865 IAC 1-12-24; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2252; filed Oct 13, 1992, 5:00 p.m.: 16 IR 894; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) NOTE: 864 IAC 1.1-13-39 was renumbered by Legislative Services Agency as 865 IAC 1-12-24.

SECTION 36. 865 IAC 1-12-25 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-25 Route survey plats

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 25. When conducting a route survey, a land surveyor shall prepare a route survey plat as follows:

(1) Draw the route survey plat to scale and in such a manner that the data shown ~~will be~~ **for the relevant parcel or parcels is** clearly legible when the plat is reduced to sheets suitable for recording **in the county in which are no larger than eleven (11) inches by seventeen (17) inches and no smaller than eight and one-half (8.5) inches by eleven (11) inches: the survey was conducted.**

(2) Show **the following:**

(A) The north arrow and scale, including a graphic scale.

~~(3) Show~~ (B) A vicinity map ~~if needed~~ to define the location of the project.

~~(4) Show~~ (C) All pertinent dimensions. Dimensions not measured shall be noted as to their origin or that they were calculated.

~~(5) Show~~ (D) Sufficient data to allow the retracement, without difficulty, of all the created lines and points.

~~(6) Show~~ (E) All:

(i) survey line;

(ii) centerline;

(iii) reference;

(iv) right-of-way;

(v) property;

(vi) government; or

(vii) other pertinent;

monuments ~~which that~~ were set or found and any reference ties thereto.

~~(7) (3)~~ Identify all monuments indicating which were set and which were found and their character, size, and location relative to the surface of the ground. Found monuments shall be accompanied by a:

(A) reference to their origin when it is known; or a

(B) notation that there is no available documented reference of the origin.

~~(8) (4)~~ Locate all monuments using an accepted practice, such as:

(A) Indiana state plan coordinates;

(B) station and offset;

(C) course and distance; or

(D) local coordinates;

including the basis for the system used.

~~(9) (5)~~ Show and locate any right-of-way points, lines, or tracts ~~which that~~ have been created or proposed relative to the **initial control survey line: points.**

~~(10) (6)~~ Show **the following:**

(A) The owners' names at the time of the survey (as determined by the county tax records or if later information is known by that information). ~~and~~

(B) The approximate location of any property lines ~~which that~~ may be:

(i) coincident with;

(ii) intersect with; or ~~may be~~

(iii) enclosed by;

any proposed or depicted right-of-way lines.

~~(11) Show~~ (C) The name of the client or government agency. Include their project or file number, if known, and the surveyor's file number.

~~(12) (7)~~ Include a certification ~~which that:~~

(A) states that, to the best of the registered land surveyor's knowledge and belief, the route survey:

(i) is executed according to the provisions of this rule; and

(ii) defines the scope of responsibility for each certifying registered land surveyor, if needed for clarity; and ~~which~~

(B) bears the:

(i) name, address, registration number, signature, and seal of each registered land surveyor; ~~the~~

(ii) date of the fieldwork; and ~~the~~

(iii) date of the certification.

(8) Nothing in this section shall prevent a complete route survey plat from being the composite of the work of one (1) or more surveyors preparing separate plats of their work as long as the following requirements are met:

(A) All of the information required under this section and in sections 21, 22, 24, and 25 of this rule is reflected in the composite of the separate plats, and the data on each of the separate plats is tied to the initial controlling survey line.

(B) The separate plats are all recorded.

(C) Any plats related to the route survey that are subsequently recorded are cross-referenced to any previously recorded plats related to the same route survey.

(D) The work is conducted in accordance with the requirements of section 3 of this rule.

(*State Board of Registration for Land Surveyors; 865 IAC 1-12-25; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2252; filed Oct 13, 1992, 5:00 p.m.: 16 IR 895; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*) NOTE: 864 IAC 1.1-13-40 was renumbered by Legislative Services Agency as 865 IAC 1-12-25.

SECTION 37. 865 IAC 1-12-27 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-27 Surveyor location reports; purpose; scope

Authority: IC 25-21.5-2-14
 Affected: IC 25-21.5

Sec. 27. (a) Surveyor location reports are designed for use by a title insurance company with loan policies on small tracts containing a one (1) to four (4) family house even if now used for commercial purposes. **A surveyor location report shall not be used for nonresidential tracts greater than two (2) acres.**

(b) A registered land surveyor does not assume responsibility regarding the location or existence of any underground use except that indicated by readily visible surface evidence. The client shall be responsible for providing any title documents other than recorded plats that are required for the report.

(c) The report must be done according to its record description, if any. No corner monuments are required to be set. The uncertainty of location for the report shall not exceed plus or minus:

- (1) one (1) foot on tracts in ~~platted~~ **recorded** subdivisions; or
 - (2) two (2) feet for ~~small unplatted~~ **other** tracts;
- unless otherwise specified and explained on the drawing.

(d) House locations more than one hundred (100) feet from an exterior boundary:

- (1) may be estimated; and
- (2) need not comply with subsection (c).

(e) Obtaining accurate and complete data on or near the perimeter of larger tracts is beyond the scope of the report. Therefore, on larger tracts, location data for items more than one hundred (100) feet from the house:

- (1) may be estimated and need not comply with subsection (c); and ~~on such larger tracts;~~
- (2) the data required by section 28(1) through 28(5) of this rule may be incomplete.

(State Board of Registration for Land Surveyors; 865 IAC 1-12-27; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2253; filed Oct 13, 1992, 5:00 p.m.: 16 IR 896; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-13-42 was renumbered by Legislative Services Agency as 865 IAC 1-12-27.

SECTION 38. 865 IAC 1-12-28 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-28 Surveyor location reports; requirements

Authority: IC 25-21.5-2-14
 Affected: IC 25-21.5

Sec. 28. When conducting a surveyor location report, a registered land surveyor shall do the following:

- (1) Briefly describe and show the location of visible evidence of possession. ~~including, but not limited to, the following:~~
 - (A) ~~Buildings.~~
 - (B) ~~Fences.~~

~~(C) Hedgerows.~~

~~(D) Other improvements appurtenant to either the surveyed property or the adjoining property.~~

Show the location of this evidence by the shortest dimension to:

- (A) the nearest adjacent boundary line; or
- (B) any depicted easement line;

in order to reveal the extent of any possible encroachment. The statement "No visible evidence of possession found" must be noted along record boundary lines when applicable. (For this purpose, monuments found do not constitute evidence of possession.)

(2) Show the location, dimensions, and a brief description of all buildings or structures on the property including, but not limited to, the following:

- (A) Driveways.
- (B) Parking lots.
- (C) ~~Such~~ Personal property, **such** as aboveground swimming pools or yard barns.

Show the location of ~~such~~ buildings adjacent to the boundary lines by the shortest distance thereto, and dimension any violation of a depicted easement or building setback line. Identify any buildings that appear to have no foundation and may be readily moveable. Show the name of the occupant, if easily available, and any client identification data requested. (3) Show the location of and briefly describe any visible evidence of use by others, such as for:

- (A) roadways;
- (B) utility lines; ~~or~~
- (C) driveways; or
- (D) possible joint use of driveways (do not label as "joint" or "common"); ~~which~~

that may affect the surveyed tract. Note the name of the user, if marked (for example, joint use by electric, telephone, and cable television companies on poles marked with electric company tags). With respect to any railroad on or adjoining the property, note if the tracks have been removed. If that is the case, note any visible evidence of construction, trenching, or other use observed on or along ~~said~~ **the** railroad.

(4) Show the location and recording data for any easements or setback lines on the tract as determined from:

- (A) recorded documents provided by the client; or ~~from~~
- (B) a recorded plat.

(5) Show the location of the perimeter of any visible evidence of cemeteries found on the surveyed tract.

(6) Show the approximate size, location, and brief description of any lakes, ditches, ~~or~~ streams on the tract or any known ~~legal~~ **regulated** drains on or within seventy-five (75) feet of the property. Detailed locations are required when:

- (A) a boundary is determined thereby; or ~~when~~
- (B) buildings or other improvements are located within a legal drain easement.

(7) Show the location of any road, street, alley, or other public way abutting or on the surveyed property with the:

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- (A) width of the ~~travelled~~ **traveled** way;
- (B) known right-of-way lines;
- (C) name;
- (D) location; and
- (E) source of any known name or right-of-way information indicated.

If not known, note which records, if any, were searched. Physical access to the property, or lack thereof, must be shown.

(8) Show the **following**:

- (A) Drawing scale.
- (B) A north arrow.
- (C) Property description and address.
- (D) Surveyor's:
 - (i) job number;
 - (ii) company name;
 - (iii) certificate;
 - (iv) signature; and
 - (v) seal;
- (E) Client name. ~~and the~~
- (F) Names of those to whom the report is certified.
- ~~(9) Show~~ (G) A report/certificate date less than thirty (30) days from the date of delivery.

(State Board of Registration for Land Surveyors; 865 IAC 1-12-28; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2253; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Nov 15, 2002, 3:33 p.m.: 26 IR 1105) NOTE: 864 IAC 1.1-13-43 was renumbered by Legislative Services Agency as 865 IAC 1-12-28.

SECTION 39. 865 IAC 1-12-29 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-29 Surveyor location reports; certificate

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 29. (a) The surveyor location report format shall be substantially the same as that contained in subsection (b), and the minimum acceptable registered land surveyor's certificate to be prepared for a surveyor location report shall be the same as that contained in subsection (b). The content and format of the certificate shall be as shown, but the type size and spacing may be altered to suit so long as the finished form is neat and clearly legible. The size of the sheet or sheets for the reports shall be: ~~no~~

- (1) **not** less than eight and one-half (8½) inches by eleven (11) inches; and ~~no~~
- (2) **not** greater than ~~eleven (11)~~ **eighteen (18)** inches by ~~seventeen (17)~~ **twenty-four (24)** inches.

The surveyor's firm name, address, and phone number may be shown at the top or bottom margin.

(b) The surveyor's certificate described in subsection (a) shall be as follows:

SURVEYOR LOCATION REPORT

THIS REPORT IS DESIGNED FOR USE BY A TITLE INSURANCE COMPANY WITH RESIDENTIAL LOAN POLICIES. NO CORNER MARKERS WERE SET AND THE LOCATION DATA HEREIN IS BASED ON LIMITED ACCURACY MEASUREMENTS. THEREFORE, NO LIABILITY WILL BE ASSUMED FOR ANY USE OF THE DATA FOR CONSTRUCTION OF NEW IMPROVEMENTS OR FENCES.

PROPERTY ADDRESS:

PROPERTY DESCRIPTION:

CLIENT I.D. NO.:

(HERE INSERT LOCATION REPORT DRAWING)

TITLE CO.:

I HEREBY CERTIFY TO THE PARTIES NAMED ABOVE THAT THE REAL ESTATE DESCRIBED HEREIN WAS INSPECTED UNDER MY SUPERVISION ON THE DATE INDICATED AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS REPORT CONFORMS WITH THE REQUIREMENTS CONTAINED IN SECTIONS 27 THROUGH 29 OF 865 IAC 1-12 FOR A SURVEYOR LOCATION REPORT. THE ACCURACY OF ANY FLOOD HAZARD STATEMENT SHOWN ON THIS REPORT IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP.

DATE OF SURVEY:

REGISTERED LAND SURVEYOR'S SIGNATURE:

(REGISTERED LAND SURVEYOR'S NAME AND INDIANA REGISTRATION NO.)

REPORT JOB NUMBER:

SEAL

PROPOSED BUYER:

PROPOSED LENDER:

(State Board of Registration for Land Surveyors; 865 IAC 1-12-29; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2254; filed Oct 13, 1992, 5:00 p.m.: 16 IR 896; errata filed Sep 14, 1994, 2:50 p.m.: 18 IR 268; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-13-44 was renumbered by Legislative Services Agency as 865 IAC 1-12-29.

SECTION 40. 865 IAC 1-12-30 IS ADDED TO READ AS FOLLOWS:

865 IAC 1-12-30 Section corner perpetuation

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5; IC 36-2-12

Sec. 30. (a) This section outlines the procedures and requirements for registered land surveyors when perpetuating the location of original public land survey corners.

(b) The purported location of an original public land survey or grant corner as referenced by the county surveyor of the county in which the corner exists is prima facie evidence of that corner's location. The registered land

surveyor's responsibility with regard to the use of or need for original public land survey corners or grant corners in association with an original or retracement survey is not met by merely contacting the county surveyor.

(c) If the:

- (1) location of an original public land survey or grant corner is not monumented and referenced by the county surveyor in accordance with IC 36-2-12; or
- (2) registered land surveyor discovers evidence, or otherwise has reason to believe, that a monument purporting to mark the location of an original public land survey or grant corner is not in the proper location;

and if that corner is necessary for purposes of conducting an original, retracement, or route survey as defined in this rule, the registered land surveyor shall contact the county surveyor and perpetuate that corner's location in accordance with this section if the county surveyor is unable to perpetuate the corner in the time frame required by the registered land surveyor.

(d) A registered land surveyor shall perpetuate the location of an original public land survey or grant corner by gathering evidence that may assist in determining the original location of that corner. This evidence includes, but is not limited to, the following:

(1) Copies of the following:

- (A) The original public land survey field notes and plat or transcribed copies of same.
- (B) Deeds and plats that reference the location of the corner.
- (C) Historic survey records, road, street, highway, and bridge plans, corner records, recorded surveys, and other relevant information from the county surveyor, the county recorder, or other county, state, and municipal offices.
- (D) Current or historic aerial photographs.
- (E) Records from private surveyors who practice or used to practice in the vicinity of the corner.

(2) Parol evidence from knowledgeable landowners or others who may have information relating to the corner.

(3) The field location of the following:

- (A) Fences.
- (B) Walls.
- (C) Roadways.
- (D) Survey markers.
- (E) Tree lines.
- (F) Other lines of possession.
- (G) Interrelated or nearby section corners, quarter section corners, quarter-quarter corners, or other aliquot corner of a section, and corners of common report.

(e) After evaluating and weighing the evidence outlined in subsection (d), the registered land surveyor shall do the

following:

(1) Apply appropriate theory of location to determine the probable locations of the corner.

(2) Excavate or otherwise determine if there is a subsurface monument in those locations unless, in the registered land surveyor's opinion, there is no substantial possibility of:

- (A) a corner stone; or
- (B) other historical survey monument;

being found in those locations. Examples of such situations include, but are not limited to, corner locations that fall in concrete highways, in areas where other excavations have previously taken place, such as, for culverts or sewers, or in areas of substantial cut or fill, such as, for interstate highway overpasses or underpasses.

Before excavating, the registered land surveyor shall notify the appropriate jurisdictional agencies.

(f) If, as a result of the corner investigation:

- (1) a corner stone;
- (2) a historical survey monument; or
- (3) other evidence;

is found marking the corner, the registered land surveyor shall remonument and reference the corner if necessary to facilitate its recovery by other surveyors.

(g) If, after excavating or otherwise conducting subsurface investigations of the probable locations outlined in subsection (e), a corner stone, historical survey monument, or other evidence of the corner is not found, the registered land surveyor shall do the following:

- (1) Establish the location of the corner:
 - (A) based on the best available evidence; and
 - (B) in accordance with procedures for lost or obliterated corners outlined in or authorized by 43 U.S.C. 751 through 43 U.S.C. 775.
- (2) Monument that location.

(h) If the corner was perpetuated for use on an original, retracement, or route survey, the registered land surveyor shall do the following:

- (1) Describe and reference the monument in such a manner that facilitates its recovery by other surveyors.
- (2) Document the following:
 - (A) The chain of history of the corner to the best of his or her knowledge.
 - (B) The evidence found and weighed.
 - (C) The search area or areas.
 - (D) The theory of location applied in reestablishing the corner.
 - (E) Other relevant information regarding the perpetuation of the corner in the surveyor's report or on the plat of survey, or both.
- (3) Provide a copy of the surveyor's report and plat of survey to the county surveyor.

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(State Board of Registration for Land Surveyors; 865 IAC 1-12-30)

SECTION 41. 865 IAC 1-13-2 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-13-2 Continuing education requirements

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7

Affected: IC 25-21.5

Sec. 2. (a) Registered land surveyors must complete twenty-four (24) hours of continuing education in order to qualify for renewal of an active license.

(b) Continuing education is first required for the July 31, 2002; renewal. However, notwithstanding subsection (a), only twenty-one (21) hours of continuing education, including six (6) mandatory hours under section 6 of this rule and fifteen (15) elective hours under section 7 of this rule, will be required for the July 31, 2002; renewal. No credit will be given for courses completed prior to August 1, 2000.

(c) No credit will be given for courses completed prior to August 1, 2000. Courses taken or taught between August 1, 2000, and the effective date of this rule and of 865 IAC 1-14 may receive credit under section 5(b) of this rule. The limitation in section 5(b) of this rule to submit course material within three (3) months after taking the course shall not apply to courses taken in this time period so long as the course material is submitted no later than April 1, 2001. (State Board of Registration for Land Surveyors; 865 IAC 1-13-2; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1025; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237)

SECTION 42. 865 IAC 1-13-5 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-13-5 Courses from approved and unapproved providers

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7

Affected: IC 25-1-11; IC 25-21.5

Sec. 5. (a) Hours of continuing education will be granted to registered land surveyors who have successfully completed:

- (1) courses offered by land surveyor continuing education providers approved under 865 IAC 1-14; or
- (2) specific courses from nonapproved providers that:
 - (A) the board has approved under subsections (b) and (c); or that
 - (B) qualify under subsections (d) through (f).

(b) It is the obligation of the registered land surveyor to submit course material from unapproved providers either not more than six (6) months after taking the course or three (3) months before the end of the renewal cycle, whichever comes first. The required information must include the following:

- (1) The course outline or description.

- (2) A certified statement signed by the registered land surveyor stating that the entire course was completed.
- (3) The information required in 865 IAC 1-14-13.
- (4) The name and professional biography of the instructor.

(c) To qualify under subsection (b):

- (1) courses must be on the subject matter listed in section 6 or 7 of this rule; and
- (2) instructors must meet the requirements of 865 IAC 1-14-9; and
- (3) course content, instructor qualifications, and provider qualifications must meet the requirements provided in 865 IAC 1-14.

If the submitted information does not meet the requirements for approval, the course may be rejected and credit denied.

(d) As an alternative to the procedures described in subsections (b) and (c), specific courses obtained from nonapproved providers shall qualify as the appropriate number of hours of continuing education as an elective topic under section 7 of this rule as long as the following requirements are met:

- (1) The course has been approved by the land surveyor registration board of another state that requires land surveyors to obtain continuing education.
- (2) The other state defines an hour of continuing education as at least fifty (50) minutes of instruction time.
- (3) The course must cover one (1) or more of the elective topics listed in section 7(a)(1) through 7(a)(14) of this rule.
- (4) The course is not self-study, correspondence, or other unmonitored course where:
 - (A) college credit is not awarded for successful completion; or where such
 - (B) the course was not provided by an accredited college or university as defined in this rule: 865 IAC 1-14-2(b).
- (5) The subject matter is not specific to a particular state, such as "boundary law of Ohio" or "the Michigan plat act".

(e) The registered land surveyor claiming credit under subsection (d) is responsible for the following:

- (1) That the requirements of subsection (d) are met.
- (2) For an audit under section 19 of this rule, making available information, such as a course:
 - (A) content outline; and a course
 - (B) objective;to establish that the requirements of subsection (d) are met.
- (3) Obtaining and retaining for five (5) years from the date of the course, a certification of course completion that substantially complies with 865 IAC 1-14-13.

(f) As it does regarding any other continuing education issue, section 19 of this rule regarding:

- (1) audits of continuing education; and
- (2) the possible imposition of sanctions under IC 25-1-11; applies to continuing education credit claimed under subsection (d). (State Board of Registration for Land Surveyors; 865 IAC

1-13-5; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1026; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jul 17, 2002, 3:36 p.m.: 25 IR 4111; filed Apr 26, 2004, 2:15 p.m.: 27 IR 2732; errata filed Apr 27, 2004, 2:00 p.m.: 27 IR 2744; errata filed May 7, 2004, 1:35 p.m.: 27 IR 2744)

SECTION 43. 865 IAC 1-13-7 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-13-7 Elective topics

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 7. (a) To qualify for renewal, a registered land surveyor must complete eighteen (18) hours of continuing education in any of the following elective topics:

- (1) College level mathematics.
- (2) College level physical sciences.
- (3) Federal and state laws, rules, regulations, and practices pertaining to **the following:**
 - (A) The establishment or reestablishment of land boundaries. ~~and~~
 - (B) The practice of land surveying in Indiana.
- (4) Preparation and analysis of legal descriptions of interests in land.
- (5) The design, planning, and platting of subdivisions.
- (6) Preparation of plans and profiles for:
 - (A) roads;
 - (B) storm drainage; and
 - (C) sanitary sewer extensions;
 for subdivisions.
- (7) The ethical, economic, and legal principles that pertain to the practice of land surveying.
- (8) Distance and direction measurements, including statistical analysis.
- (9) Topographic and hydrographic surveying.
- (10) Photogrammetry.
- (11) Surveying applications, such as **the following:**
 - (A) GIS.
 - (B) LIS.
 - (C) GPS.
- (12) Advanced surveying procedures and equipment.
- (13) Computer applications for land surveyors.
- (14) ~~College level~~ Communication, such as **the following:**
 - (A) Public speaking. ~~and~~
 - (B) Technical writing.
- (15) The topics listed in section 6 of this rule.

(b) No single elective course may count for more than twelve (12) hours of continuing education. **Hours in excess of twelve (12) granted for any single elective course shall not be applied to the hours of continuing education required in the next renewal period as otherwise allowed under section 10 of this rule.** *(State Board of Registration for Land Surveyors; 865 IAC 1-13-7; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1026;*

readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Nov 7, 2003, 11:45 a.m.: 27 IR 875)

SECTION 44. 865 IAC 1-13-8 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-13-8 Continuing education credit not given

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 8. Credit will not be given for any of the following:

- (1) Any education obtained ~~prior to~~ **before** licensure.
 - (2) Self-study courses, correspondence courses, or any other unmonitored course where:
 - (A) college credit ~~are is~~ not awarded for successful completion; or ~~where such~~
 - (B) ~~the~~ course was not provided by an accredited college or university as defined in ~~this rule:~~ **865 IAC 1-14-2(b).**
 - (3) Meetings conducted during eating periods.
 - (4) Motivational classes or seminars.
 - (5) Meetings of the ~~state board. of registration for land surveyors:~~
 - (6) Business, social, or other noneducational meetings of professional groups, or subgroups, such as the Indiana Society of Professional Land Surveyors.
 - (7) Committee work with local, state, or national professional organizations.
 - (8) Staff meetings.
 - (9) Courses taken for a second or subsequent time during a renewal period.
 - (10) ~~Courses or seminars not completed. Partial credit may not be given:~~
 - (11) ~~(10)~~ Courses not completed due to dismissal by the provider for disruption of the course, such as **the following:**
 - (A) Reading newspapers.
 - (B) Talking on mobile telephones. ~~or~~
 - (C) Anything other than paying attention during the course.
- (State Board of Registration for Land Surveyors; 865 IAC 1-13-8; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1026; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237)*

SECTION 45. 865 IAC 1-13-10 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-13-10 Hours used in later renewal cycles

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 10. (a) **Up to four (4) hours of elective** continuing education **topics earned, but not used,** in one (1) renewal period may ~~not be used~~ **applied to the hours required in a subsequent the next** renewal period. **Proper documentation of any such hours shall be submitted as required by the board.**

(b) **The applying of hours from a previous renewal period under subsection (a) shall not be allowed until the 2010**

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renewal for continuing education hours obtained between August 1, 2006, and July 31, 2008. (*State Board of Registration for Land Surveyors; 865 IAC 1-13-10; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1027; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*)

SECTION 46. 865 IAC 1-13-11 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-13-11 College courses as continuing education

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7

Affected: IC 25-21.5

Sec. 11. College courses taken after licensure that qualify for continuing education credit under section 6 or 7 of this rule will be counted as follows:

- (1) Ten (10) hours of continuing education credit per credit hour taken in a quarter system.
- (2) Fifteen (15) hours of continuing education credit per credit hour taken in a semester system.

However, college credit earned under this section and applied as elective continuing education hours must comply with the requirements of section 7 of this rule. (*State Board of Registration for Land Surveyors; 865 IAC 1-13-11; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1027; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*)

SECTION 47. 865 IAC 1-13-19 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-13-19 Audits of continuing education compliance

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7

Affected: IC 25-1-11; IC 25-21.5-8-7

Sec. 19. (a) The board may conduct audits of registered land surveyors and providers for continuing education compliance. **In conducting an audit, the board may request information from a registered land surveyor or provider, in which case the registered land surveyor or provider shall respond within thirty (30) days.** For every purpose of this section, the board may designate a board member or staff member to act on behalf of or in name of the board.

(b) If, as the result of an audit or other review, the board determines that hours of continuing education a registered land surveyor has claimed do not meet the requirements of IC 25-21.5-8-7 and this article, the board shall notify the registered land surveyor of that determination.

(c) A registered land surveyor, who has been notified under subsection (b), may, within thirty (30) days, submit information to the board giving all the substantive reasons in support of the registered land surveyor's position that an adequate number of hours of continuing education have been completed.

(d) A registered land surveyor who submits false information

shall be subject to the sanctions provided for under IC 25-1-11.

(e) Registered land surveyors who are found not to be in compliance will be subject to discipline under IC 25-1-11. (*State Board of Registration for Land Surveyors; 865 IAC 1-13-19; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1028; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*)

SECTION 48. 865 IAC 1-14-2 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-14-2 Continuing education course providers

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7

Affected: IC 25-21.5

Sec. 2. (a) The board, upon application, may grant continuing education course provider approval to applicants who apply under this rule.

(b) Colleges and universities ~~who are~~ accredited by the following accrediting entities are deemed by the board to be approved continuing education providers and need not apply for approval **as providers, but must apply for approval of individual continuing education courses as outlined in section 4 of this rule:**

- (1) Middle States Association of Colleges and Schools/Commission on Higher Education.
- (2) New England Association of Schools and Colleges.
- (3) North Central Association of Schools and Colleges.
- (4) Northwest Association of Schools and Colleges.
- (5) Southern Association of Colleges and Schools/Commission on Colleges.
- (6) Western Association of Schools and Colleges/Accrediting Commission for Senior Colleges.

(*State Board of Registration for Land Surveyors; 865 IAC 1-14-2; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1029; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237*)

SECTION 49. 865 IAC 1-14-13 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-14-13 Certifications of completion

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7

Affected: IC 25-21.5

Sec. 13. (a) Course providers shall provide the registered land surveyor who successfully completes an approved course a certification of course completion that must include the following information:

- (1) Name, telephone number, and address of the provider.
- (2) Name and license number of the participant.
- (3) Title of the course.
- (4) Course location.
- (5) Date of the course.
- (6) Number of approved course hours.
- (7) Name **and** address **and** signature of the instructor.

(b) The course provider must complete the ~~certification certificate~~ of completion in its entirety, **except that participants may fill in their own license numbers.**

(c) ~~In lieu~~ **Instead** of a certification, the board may accept documentation that provides the information that is contained in subsection (a).

(d) The board may accept a college transcript ~~in lieu~~ **instead** of a certification of course completion. *(State Board of Registration for Land Surveyors; 865 IAC 1-14-13; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1030; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Nov 7, 2003, 11:45 a.m.: 27 IR 876)*

SECTION 50. 865 IAC 1-14-14 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-14-14 Courses not completed

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 14. (a) Course providers, at their discretion, may grant **the following** to registered land surveyors:

- (1) Partial credit in proportion to the amount of time that a registered land surveyor attended the continuing education course.
- (2) After one (1) hour of instruction, ~~course providers may grant registered land surveyors~~ credit in one-half (½) hour increments.

(b) To receive full credit for a course, a registered land surveyor must:

- (1) be present for the entire course; **or**
- (2) **in the case of continuing education obtained by college or university courses, receive full credit for the course from that college or university.**

(State Board of Registration for Land Surveyors; 865 IAC 1-14-14; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1030; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Nov 7, 2003, 11:45 a.m.: 27 IR 876)

SECTION 51. 865 IAC 1-14-15 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-14-15 Reporting attendance to the board

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 15. ~~(a)~~ Course providers shall, not more than thirty (30) days after a course is presented, submit the following to the board:

- (1) An alphabetical list of all registered land surveyors who attended the course **with the registration number of each registrant.**
- (2) A certified statement of the hours of continuing education to be credited to each registrant.

~~(b) Course providers may submit~~ **(3)** The list required in subsection ~~(a) subdivision (1)~~ **electronically as specified by the board.**

(State Board of Registration for Land Surveyors; 865 IAC 1-14-15; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1030; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Nov 7, 2003, 11:45 a.m.: 27 IR 876)

SECTION 52. 865 IAC 1-14-16 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-14-16 Auditing courses by the board

Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 16. The board reserves the right to send a representative to evaluate a course and related aspects, such as the:

- (1) facilities;
- (2) course outline;
- (3) handouts;
- (4) instructor; and
- (5) presentation;

at no cost to the board or its representative. The representative may record all or part of any presentations. Board representatives who attend continuing education courses without paying the full fee charged by the course provider are ineligible to receive continuing education credit **for those courses.** *(State Board of Registration for Land Surveyors; 865 IAC 1-14-16; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1030; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237)*

SECTION 53. THE FOLLOWING ARE REPEALED: 865 IAC 1-4-9; 865 IAC 1-10-11; 865 IAC 1-12-8; 865 IAC 1-12-15; 865 IAC 1-12-16; 865 IAC 1-12-17; 865 IAC 1-12-19; 865 IAC 1-12-26.

SECTION 54. **SECTION 45 of this document takes effect August 1, 2006.**

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 9, 2005 at 11:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 12, Indianapolis, Indiana the State Board of Registration for Land Surveyors will hold a public hearing on proposed amendments to revise the definitions and board meeting scheduling, to revise the minimum education and experience requirements established under IC 25-21.5-5-2 for admission to the land surveyor and land-surveyor-in-training examination, concerning students enrolled in an approved land surveying curriculum submitting the SIT examination application to a board designee on the student's campus, to update and clarify requirements concerning examinations, to revise the standards for comity registration, to revise the design, application, and use of the land surveyor seal, and to establish the definitions,

Proposed Rules

standards, and requirements for the use of electronic or digital signatures, to clarify language regarding the payment of renewal fees, to require a registrant to identify the address of all the offices that the registrant is in responsible charge of land surveying work, and to require a registrant to notify the board of any change in the registrant's address and office address, to update the disclosure of conflicts of interest, to revise the standards for the competent practice of land surveying, to revise the continuing education requirements for registered land surveyors, to revise the requirements for land surveyor continuing education providers, and to repeal 865 IAC 1-4-9, 865 IAC 1-10-11, 865 IAC 1-12-8, 865 IAC 1-12-15, 865 IAC 1-12-16, 865 IAC 1-12-17, 865 IAC 1-12-19, and 865 IAC 1-12-26.

The Board has the authority to promulgate rules in accordance with IC 4-22-2 to enforce and administer IC 25-21.5, including establishing the standards for the competent practice of land surveying. This proposed rule will not have any costs on small businesses. The proposed rule clarifies language to make the rules consistent with the Board's statutes, removes out-of-date and unnecessary language in the rules, revises and clarifies the standards for the competent practice of land surveying to reflect the current practice and to assist the Board in disciplinary hearings, and revises the continuing education requirements to allow licensees to carry over excess hours and allow continuing education providers to submit continuing education hours electronically. This proposed rule will have no cost on the regulated entities.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

Proposed Rule

LSA Document #05-185

DIGEST

Adds 888 IAC 1.1-5-3 to define practitioner and to establish the requirements to report substance abuse or psychiatric impairment of a veterinarian or veterinary technician to the Board. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

Industry Sector 541940 Veterinary Services

The Indiana Board of Veterinary Medical Examiners (Board) estimates that no small businesses will be directly affected by this rule. The Board has the authority to promulgate rules concerning the standards of professional conduct for the competent practice of veterinary medicine and a veterinary technician. This proposed rule will have no cost on the small businesses.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Board estimates that there will be no annual reporting, record keeping, or administrative costs incurred by small businesses to comply with this rule.

Estimated Total Annual Economic Impact on Small Businesses:

The Board estimates that there will be no impact on small businesses as a result of compliance with this rule.

• Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law: There are no compliance costs that need to be justified for this proposed rule.

• Supporting Data, Studies, or Analyses: The Board has not relied on any supporting data, studies, or analyses in reaching these estimates.

Regulatory Flexibility Analysis of Alternative Methods:

The Board has not analyzed alternatives to this proposed rule.

• Explanation of Preliminary Determination: The General Assembly gave the Board the authority to enact and establish these rules, and thus the Board did not explore alternative measures.

• Supporting Data, Studies, or Analyses: The Board did not rely on any studies in its decision not to employ alternatives to rulemaking.

888 IAC 1.1-5-3

SECTION 1. 888 IAC 1.1-5-3 IS ADDED TO READ AS FOLLOWS:

888 IAC 1.1-5-3 Reporting of substance abuse or psychiatric impairment

Authority: IC 15-5-1.1-8

Affected: IC 15-5-1.1

Sec. 3. (a) For purposes of this section, "practitioner" means a:

(1) veterinarian who is licensed to practice veterinary medicine; or

(2) veterinary technician who is registered to work under the direct supervision of a licensed veterinarian;

in accordance with IC 15-5-1.1.

(b) Any practitioner who has personal knowledge based upon a reasonable belief that another practitioner has a:

(1) severe dependency upon alcohol or other drugs or controlled substances; or

(2) psychiatric impairment;
shall promptly report the conduct to the board unless the practitioner with the substance abuse problem or psychiatric impairment would be exempt from reporting himself or herself under subsection (c).

(c) A practitioner who voluntarily submits himself or herself to, or is otherwise undergoing, a course of treatment for:

- (1) addiction;**
- (2) severe dependency upon alcohol or other drugs or controlled substances; or**
- (3) psychiatric impairment;**

where the treatment is sponsored or supervised by professional healthcare or substance abuse treatment providers shall be exempt from reporting to the board for so long as the practitioner is complying with the course of recommended treatment and making satisfactory progress.

(d) This section shall not, in any manner whatsoever, directly or indirectly, be deemed or construed to:

- (1) prohibit;**
- (2) restrict;**
- (3) limit; or**
- (4) otherwise preclude;**

the board from taking any action it deems appropriate or as may otherwise be provided by law. (*Indiana Board of Veterinary Medical Examiners; 888 IAC 1.1-5-3*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 30, 2005 at 9:15 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the Indiana Board of Veterinary Medical Examiners will hold a public hearing on a proposed new rule to define practitioner and to establish the requirements to report substance abuse or psychiatric impairment of a veterinarian or veterinary technician to the Board.

The Indiana Board of Veterinary Medical Examiners has the authority to promulgate rules concerning the standards of professional conduct for the competent practice of veterinary medicine and the competent practice of a veterinary technician. The proposed rule requires a licensed veterinarian or registered veterinary technician to report to the Board substance abuse or psychiatric impairment of another licensed veterinarian or registered veterinary technician. This proposed rule will have no cost on the regulated entities but will protect the public.

Currently, the Board does not have a rehabilitation and monitoring program for veterinarians or veterinary technicians who have been affected by the use or abuse of alcohol or other drugs and/or psychiatric impairment. Without a rehabilitation and monitoring program, a veterinarian or veterinary technician would be able to enter himself or herself for treatment

without reporting the information to the Board. While this allows the practitioners to receive treatment, the Board does not have the ability to regulate its licensees and impose sanctions, if any, against the practitioner's license for possible licensing violations based on the impairment.

The Indiana Veterinary Medical Association intends to enter into a contract with the Indiana State Medical Association's Physicians Assistant Program ("ISMA PAP") to provide rehabilitative and monitoring services for veterinarians and veterinary technicians who have been affected by the use or abuse of alcohol or other drugs and/or psychiatric impairment. The Board would also be able to refer practitioners to ISMA PAP for assistance if disciplinary action is taken against the practitioner's license.

There is a great need to have a rehabilitation and monitoring program for practitioners. This program also gives practitioners another entity to seek assistance. Currently, a practitioner who has been affected by the use or abuse of alcohol or other drugs and/or psychiatric impairment must find their own program. Unfortunately, the guidelines differ from program to program. With the ISMA PAP, all the practitioners sign rehabilitative and monitoring contracts. Moreover, if the practitioner is noncompliant with the terms of the rehabilitative and monitoring contract, ISMA PAP will immediately report that to the Office of Attorney General or the Board, whichever is appropriate, to pursue disciplinary action on the practitioner's license.

The ISMA PAP offers:

- (A) intervention;*
- (B) assessment;*
- (C) treatment;*
- (D) referral;*
- (E) monitoring; and*
- (F) advocacy;*

to the practitioner that will address their substance abuse and/or psychiatric impairment. Without this proposed rule, the ISMA PAP would not be able to report to the Board a practitioner that does not comply with the program, which limits the ability of the Board to act accordingly.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Readopted Rules

Notices of Intent to Readopt

TITLE 280 DIVISION OF PREPAREDNESS AND TRAINING

NOTE: Under P.L.22-2005, SECTION 59, the name of the Public Safety Training Board is changed to the Division of Preparedness and Training, effective April 15, 2005.

Notice of Intent
LSA Document #05-300

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect unless the rule contains an earlier expiration date. Effective 30 days after filing with the Secretary of State.

OVERVIEW: Rules to be readopted without changes are as follows:

- 280 IAC 1-1 Definitions
- 280 IAC 1-2 Training Facilities and Materials
- 280 IAC 1-3 Diplomas or Certificates
- 280 IAC 1-4 Advanced Handler and Canine Teams

Questions or comments about the readoption are invited and may be directed by mail to Division of Preparedness and Training, Department of Homeland Security, Attention: Legal and Code Services, Indiana Government Center-South, 402 West Washington Street, Room W246, Indianapolis, IN 46204.

Requests for any part of this readoption to be separate from this action must be made in writing within 30 days of this publication. Send written comments to:

Division of Preparedness and Training
Department of Homeland Security
Attention: Legal and Code Services
Indiana Government Center-South
402 West Washington Street, Room W246
Indianapolis, IN 46204

Statutory authority: P.L.22-2005, SECTION 59.

1 of the seventh year after the year in which the rule takes effect unless the rule contains an earlier expiration date. Effective 30 days after filing with the Secretary of State.

305 IAC 1-2

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

305 IAC 1-2 Definitions

LSA Document #05-60(F)

Intent to Readopt Rules Published: May 1, 2005; 28 IR 2458

Proposed Readopted Rules Published: July 1, 2005; 28 IR 3051

Hearing Held: July 22, 2005

Filed with Secretary of State: September 13, 2005, 9:45 a.m.

Final Readopted Rules

TITLE 305 INDIANA BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS

Final Rule
LSA Document #05-60(F)

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January

365 Day Notice (IC 4-22-2-19)

**TITLE 675 FIRE PREVENTION AND BUILDING
SAFETY COMMISSION**

LSA Document #05-104

September 12, 2005

Representative Michael Murphy, Chairperson
Administrative Rules Oversight Committee
c/o Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Attention: Sarah Burkman

Subject: LSA Document #05-104

Dear Representative Murphy:

On behalf of the Fire Prevention and Building Safety Commission I am submitting this notice to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the agency has determined that the promulgation of the captioned rule may not be completed within one year after publication of the notice of intent to adopt a rule.

The commission published its notice of intent to adopt a rule for the captioned document on June 1, 2005 (28 IR 2758). As of this date the proposed rule is not completed in a form suitable for publishing in the Indiana Register.

The expected date that the rule may be adopted by the commission is July 6, 2006.

The expected date that the rule may be approved by the Governor is August 31, 2006.

The two hundred fiftieth day after publication of the notice of intent to adopt a rule is April 8, 2006.

Sincerely,

Mara Snyder
Director, Legal and Code Services Branch

**TITLE 675 FIRE PREVENTION AND BUILDING
SAFETY COMMISSION**

LSA Document #05-108

September 12, 2005

Representative Michael Murphy, Chairperson
Administrative Rules Oversight Committee

c/o Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Attention: Sarah Burkman

Subject: LSA Document #05-108

Dear Representative Murphy:

On behalf of the Fire Prevention and Building Safety Commission I am submitting this notice to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the agency has determined that the promulgation of the captioned rule may not be completed within one year after publication of the notice of intent to adopt a rule.

The commission published its notice of intent to adopt a rule for the captioned document on June 1, 2005 (28 IR 2758). As of this date the proposed rule is not completed in a form suitable for publishing in the Indiana Register.

The expected date that the rule may be adopted by the commission is July 6, 2006.

The expected date that the rule may be approved by the Governor is August 31, 2006.

The two hundred fiftieth day after publication of the notice of intent to adopt a rule is April 8, 2006.

Sincerely,

Mara Snyder
Director, Legal and Code Services Branch

**TITLE 675 FIRE PREVENTION AND BUILDING
SAFETY COMMISSION**

LSA Document #05-127

September 12, 2005

Representative Michael Murphy, Chairperson
Administrative Rules Oversight Committee
c/o Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Attention: Sarah Burkman

Subject: LSA Document #05-127

Dear Representative Murphy:

On behalf of the Fire Prevention and Building Safety Commission I am submitting this notice to the Administrative Rules

AROC Notices

Oversight Committee in compliance with IC 4-22-2-25, because the agency has determined that the promulgation of the captioned rule may not be completed within one year after publication of the notice of intent to adopt a rule.

The commission published its notice of intent to adopt a rule for the captioned document on June 1, 2005 (28 IR 2759). As of this date the proposed rule is not completed in a form suitable for publishing in the Indiana Register.

The expected date that the rule may be adopted by the commission is July 6, 2006.

The expected date that the rule may be approved by the Governor is August 31, 2006.

The two hundred fiftieth day after publication of the notice of intent to adopt a rule is April 8, 2006.

Sincerely,

Mara Snyder
Director, Legal and Code Services Branch

TITLE 329 SOLID WASTE MANAGEMENT BOARD

FIRST NOTICE OF COMMENT PERIOD
LSA Document #05-296(SWMB)

DEVELOPMENT OF AMENDMENTS TO RULES AT 329 IAC 10 CONCERNING CONSTRUCTION/DEMOLITION WASTE AND CERTAIN PERMITTING REQUIREMENTS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at 329 IAC 10 concerning unrecognizable, crushed construction/demolition waste and changes to permitting requirements mandated under Senate Enrolled Act 279-2005. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: 329 IAC 10.

AUTHORITY: IC 4-22-2; IC 13-10-4-8; IC 13-14-8-1; IC 13-14-8-2; IC 13-14-9; IC 13-15-2; IC 13-19-3-1; IC 13-19-4-1; IC 13-19-4-6; IC 13-30-2.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

An amendment to 329 IAC 10-9-3 is proposed that provides that construction/demolition waste must be easily recognizable as such, and not crushed, in order to be disposed of in a construction/demolition landfill. This amendment is needed in the Indiana solid waste rules because some businesses have been completely crushing large volumes of construction/demolition waste and shipping it by railcar to some of Indiana’s neighboring states, causing environmental and health problems that Indiana should avoid. The construction/demolition landfills in our neighboring states, much like Indiana’s landfills, are not constructed to receive such large volumes of dense waste. These types of landfills are not constructed with either leachate or gas collection lines, or a plastic liner. The disposal of large volumes of dense waste, specifically crushed wall board, has caused hydrogen sulfide to be produced at these landfills sometimes to the extent that nearby schools and businesses have had to be temporarily closed, and the integrity of the landfill has been compromised.

This rulemaking will also amend the permitting requirements in 329 IAC 10 to include statutory revisions that were passed by the Indiana Legislature in Senate Enrolled Act 279-2005. These changes include the following:

1. Good character requirements do not apply to the transfer of a permit for a solid waste disposal facility to an applicant that holds a permit for and is operating a solid waste disposal facility or hazardous waste facility in Indiana after December 31, 2004, except as provided in IC 13-19-4-8(c). The implementing amendment is proposed to be added at 329 IAC 10-

13-5(d).

2. Good character requirements are applied depending on the percentage of change in ownership control for a solid waste disposal facility. Good character requirements do not apply to renewals. The implementing amendments are proposed to be added under the permit transfer rule at 329 IAC 10-13-5(e) and (f).

Alternatives To Be Considered Within the Rulemaking

Alternative 1. Adding a requirement for construction/demolition waste to be easily recognizable and not crushed; amending permitting requirements.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No. The amended permit requirements are mandated by state law.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a “state-only” requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Adding requirements for the construction/demolition landfills to be designed, constructed, and operated as municipal solid waste landfills in order to accept the massive quantities of unidentifiable, pulverized waste; amending permitting requirements.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No. The amended permit requirements are mandated by state law.
- Is this alternative imposed by federal law or is there a comparable federal law? No, however, any landfill that accepts municipal solid waste must meet the requirement of 40 CFR 258.
- If it is a federal requirement, is it different from federal law? N/A
- If it is different, describe the differences. N/A

Alternative 3. Adopt only the permit requirements mandated by state law; no changes regarding construction/demolition waste.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? N/A
- If it is different, describe the differences. N/A

Applicable Federal Law

These amendments are not applicable under federal law, only state law.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. Regarding new construction/demolition waste requirements, IDEM cannot estimate the potential fiscal impact of this alternative at this time. IDEM solicits comment on the potential fiscal impact of this alternative.

Potential Fiscal Impact of Alternative 2. Regarding new

construction/demolition waste requirements, this alternative will be very expensive to implement. The most updated cost projection to permit and construct a municipal solid waste landfill is \$80,000-100,000 /acre.

Potential Fiscal Impact of Alternative 3. Regarding new construction/demolition waste requirements, this alternative will not have any fiscal impact.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a Small Business Assistance Program Ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041
Indianapolis, IN 46204-2251
317-232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue
IGCN 1301
Indianapolis, IN 46204-2251
317-234-3386
elevenha@idem.in.gov

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Lynn West, Rules, Outreach, and Planning Section, Office of Land Quality at (317) 232-3593 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.

(6) Economic reasonableness of measuring or reducing any particular type of pollution.

(7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

(1) The submission of alternative ways to achieve the purpose of the rule.

(2) The submission of suggestions for the development of draft rule language.

(3) The submission of information on the fiscal impact of Alternative #1 in this Notice.

Mailed comments should be addressed to:

#05-296(SWMB) [Amendment to 329 IAC 10 for C/D waste and changes to permitting requirements]

Marjorie Samuel

Rules, Outreach, and Planning Section

Office of Land Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Outreach, and Planning Section at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by November 30, 2005.

Additional information regarding this action may be obtained from Lynn West, Rules, Outreach, and Planning Section, Office of Land Quality, (317) 232-3775 or (800) 451-6027 (in Indiana).

Bruce H. Palin

Assistant Commissioner

Office of Land Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD

FIRST NOTICE OF COMMENT PERIOD

LSA Document #05-297(SWMB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING SOLID WASTE PROCESSING FACILITIES AT 329 IAC 11

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules regarding solid waste processing facilities at 329 IAC 11 that implement certain provisions of Public Law 154-2005 (Senate Enrolled Act 279). IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: 329 IAC 11.

AUTHORITY: IC 4-22-2; IC 13-14-8-1; IC 13-14-8-2; IC 13-14-9; IC 13-15-2; IC 13-19-3-1; P.L.154-2005.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

This rulemaking implements provisions of SEA 279-2005 with regard to solid waste processing facilities and proposes clarification and transition language for these provisions consistent with the regulatory scheme of 329 IAC 11.

These changes include the following:

Adding additional categories of facilities to the definition of “solid waste processing facility” to be consistent with the amended statutory definition at IC 13-11-2-212.

Amending 329 IAC 11-9-5 regarding demonstrations of need to exclude transfer stations.

Revising the general exclusions at 329 IAC 11-3-1(5) to clarify language and implement the amended definition of solid waste processing facility.

Providing a transition period for permitting additional categories of solid waste processing facilities.

Amending 329 IAC 11-11-5 to provide comprehensive requirements for transferring permits and ownership.

Alternatives To Be Considered Within the Rulemaking

There are no alternatives to rulemaking to accomplish the purpose of this notice. IDEM is considering the following alternatives in this rulemaking.

Alternative 1. Amending the rule to make it consistent with statutory mandates; adding clarification and transition language.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No. The amendments implementing SEA 279 are mandated by state law.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Amending the rule to make it consistent with statutory mandates; no transition or clarification language.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No. The amendments implementing SEA 279 are mandated by state law.
- Is this alternative imposed by federal law or is there a

comparable federal law? No.

- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

There are no federal laws that are applicable to this rulemaking.

Potential Fiscal Impact

IDEM is unable to quantify a fiscal impact for Alternative 1 or Alternative 2 at this time. IDEM specifically solicits comment on any potential fiscal impact associated with this rulemaking.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a Small Business Assistance Program Ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf

IDEM Compliance and Technical Assistance Program

OPPTA - MC60-04

100 N. Senate Avenue

W-041

Indianapolis, IN 46204-2251

317-232-8578

selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen

IDEM Small Business Assistance Program Ombudsman

External Affairs - MC50-01

100 N. Senate Avenue

IGCN 1301

Indianapolis, IN 46204-2251

317-234-3386

elevenha@idem.in.gov

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Lou McFadden, Rules Section, Office of Land Quality at (317) 232-8922 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water

quality, as the case may be.

(5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.

(6) Economic reasonableness of measuring or reducing any particular type of pollution.

(7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

(1) The submission of alternative ways to achieve the purpose of the rule.

(2) The submission of suggestions for the development of draft rule language.

(3) The submission of information on the fiscal impact of each alternative identified in this notice.

Mailed comments should be addressed to:

#05-297(SWMB) [Amendments to 329 IAC 11]

Marjorie Samuel

Rules, Planning and Outreach Section

Office of Land Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204

Hand delivered comments will be accepted by the IDEM receptionist on duty at the eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by November 30, 2005.

Additional information regarding this action may be obtained from Lou McFadden, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8922 or (800) 451-6027 (in Indiana).

Bruce H. Palin

Assistant Commissioner

Office of Land Quality

**State of Indiana
Notice of Public Hearing on Proposed SFY 2006
Drinking Water State Revolving Fund (DWSRF) and Wastewater State Revolving Fund (WWSRF) Program
Project Priority Lists (PPLs)**

Notice is given that Indiana's Drinking Water State Revolving Fund (DWSRF) and Wastewater State Revolving Fund (WWSRF) Loan Programs adopted the State Fiscal Year 2006 Project Priority Lists (PPLs) for infrastructure projects that could be funded through the SRF Programs on August 15, 2005. The following public hearings for quarterly changes to the PPLs are cancelled:

3rd quarter: 1:00 p.m., December 15, 2005, SRF Conference Room, 12th floor, IGCN 1275.

Written comments must be submitted by December 25, 2005.

4th quarter: 1:00 p.m., March 16, 2006, SRF Conference Room, 12th floor, IGCN 1275.

Written comments must be submitted by March 27, 2006.

Inquiries about and requests for the updated Drinking Water SRF PPL should be directed to:

Ms. Sarah Reymann
DWSRF Administrator
IGCN, Rm. 1275
Indianapolis, IN 46204
317/232-8663
sreymann@idem.in.gov

Inquiries about and requests for the updated Wastewater SRF PPL should be directed to:

Ms. Shelley L. Love
WWSRF Administrator
IGCN, Rm. 1275
Indianapolis, IN 46204
317/232-4396
slope@idem.in.gov

Nonrule Policy Documents

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title: Environmental Notice for Mitigation required in Clean Water Act Section 401 State Water Quality Certifications

Identification Number: Water-006-NRD

Date Originally Effective: October 14, 2005

Dates Revised: None

Other Policies Repealed or Amended: None

Brief Description of Subject Matter: To consistently implement the Clean Water Act Section 401 State Water Quality Certification program and the State Regulated Wetland Permitting program, IDEM will not require a deed restriction as a condition for a Clean Water Act Section 401 State Water Quality Certification.

Citations Affected: IC 13-18-22; 327 IAC 17

This nonrule policy document is intended solely as guidance and does not have the effect of law or represent formal Indiana Department of Environmental Management (IDEM) decisions or final actions. This nonrule policy document shall be used in conjunction with applicable laws. It does not replace applicable laws, and if it conflicts with these laws, the laws shall control. This nonrule policy document may be put into effect by IDEM 30 days after presentation to the appropriate board. Pursuant to IC 13-14-11.5, this policy will be available for public inspection for at least 45 days prior to presentation to the appropriate board. If the nonrule policy is presented to more than one board, it will be effective 30 days after presentation to the last. IDEM will submit the policy to the Indiana Register for publication. Revisions to the policy will follow the same procedure of presentation to the board and publication.

General Background

Certain proposed impacts to Indiana's wetlands are required to be authorized under either a federal 404 permit, issued by the United States Army Corps of Engineers (USACOE) following a 401 certification by IDEM, or a state regulated wetland permit, issued by IDEM. IDEM's authority to issue 401 certifications is given directly through the Clean Water Act (CWA). Therefore, there is no need for a delegation agreement between USACOE and IDEM. Thus, grossly simplified, the 401 process is:

- 1) IDEM receives a complete application to discharge fill into a water of the US.
- 2) IDEM writes a certification with appropriate conditions to assure compliance with the appropriate state water quality standards (WQS).
- 3) USACOE issues a 404 permit, which includes the 401 conditions and any other conditions the USACOE deems appropriate.
- 4) The USACOE enforces all conditions of the 404 permit, including those from the 401. With USACOE enforcement, IDEM is not precluded from enforcing the conditions of the 401 certification.

Since the USACOE enforces the conditions of the 404 permit, IDEM's own enforcement abilities are of limited concern for federally jurisdictional wetlands. This is not the case with State Regulated Wetlands. State Regulated Wetlands are, by definition, not under federal jurisdiction. IDEM has sole enforcement responsibility. The USACOE could require a deed restriction condition on the 404 permit regardless of whether IDEM required one through the 401 certification. Inclusion of a deed restriction condition on 404 permits is a POLICY (not a requirement) of the USACOE. Following is the applicable excerpt from the USACOE's mitigation guidance:

"g. Site Protection: Compensatory mitigation plans should include a written description of the legal means for protecting mitigation area(s), and permits will be conditioned accordingly. The wetlands, uplands, riparian areas, or other aquatic resources in a mitigation project should be permanently protected, in most cases, with appropriate real estate instruments, e.g., conservation easements, deed restrictions, transfer of title to Federal or state resource agencies or non-profit conservation organizations. Generally, conservation easements held by tribal, state or local governments, other Federal agencies, or non-governmental groups, such as land trusts, are preferable to deed restrictions. Homeowners' associations should be used for these purposes only in exceptional circumstances, such as when the association is responsible for community open spaces with restrictive covenants. Districts may require third party monitoring if necessary to ensure permanent protection. In no case will the real estate instrument require a Corps official's signature. Also, Districts will not approve a requirement that results in the Federal government holding deed restrictions on properties, or that contains real estate provisions committing Corps Districts to any interest in the property in question, unless proper statutory authority is identified that authorizes such an arrangement."

Legal Background

A February 22, 2005 memorandum from IDEM Office of Legal Counsel staff to IDEM Office of Water Quality program staff concludes that IDEM has no legal authority to enforce deed restrictions for wetland mitigation. Following is the main body of the memo in its entirety:

"Indiana case law has established that deed restrictions and other types of restrictive covenants are essentially contract rights; express contracts between a grantor and grantee which restrict the grantee's use of land. Parties who do not hold an interest that runs with the land do not have standing to enforce a covenant that runs with the land. The Court of Appeals of Indiana has made this finding numerous times, e.g., *Holliday v. Crooked Creek Villages*, 759 N.E. 2d 1088 (Ind. App. 2001), *Hrisomalos v. Smith*, 600 N.E. 2d 1363 (Ind. App. 1992).

However, there is statutory authority under IC 13-14-2-6(5) for IDEM to enforce restrictive covenants created in connection to remediations, cleanups, closures or corrective actions. Restrictive covenants intended to protect wetland mitigation sites do not meet the criteria for enforceability under IC 13-14-2-6(5). That the Indiana legislature recognized the need to provide specific statutory authority for the state to enforce those specific covenants reinforces the position that absent the granting of such authority, IDEM may not enforce covenants concerning wetland mitigation sites."

Policy Resolution

Considering the USACOE will, likely, require a deed restriction condition on the 404 permit regardless of whether IDEM required one through the 401 certification; and

Considering the Indiana legislature did not recognize the need to provide specific statutory authority for the state to enforce covenants concerning wetland mitigation sites, IDEM may not enforce covenants concerning wetland mitigation sites; and

Noting that IDEM believes it is important to consistently implement the Clean Water Act Section 401 State Water Quality Certification program and the State Regulated Wetland Permitting program; and

Understanding that the Water Pollution Control Board, on March 9, 2005 adopted rules (327 IAC 17) concerning state regulated wetlands and wetland activity permits which do not require a deed restriction as a condition for a wetland activity permit.

IDEM will not require a deed restriction as a condition for a Clean Water Act Section 401 State Water Quality Certification. IDEM will require, as a condition for a Clean Water Act Section 401 State Water Quality Certification, that an applicant establishing a mitigation wetland must file a signed and recorded environmental notice, which describes the compensatory mitigation contained in the mitigation plan, with the department within sixty (60) days of the applicant's release from monitoring requirements.

Explanation

IDEM believes it is important that rules be clear and enforceable. Additionally, implementation of rules should be predictable across similar programs. Specifically, as noted above, IDEM believes it is important to consistently implement the Clean Water Act Section 401 State Water Quality Certification program and the State Regulated Wetland Permitting program.

IDEM does not believe it is appropriate to require any conditions that are not enforceable. As IDEM does not have standing to enforce deed restrictions for wetland mitigation, IDEM believes it is not appropriate to require deed restrictions for wetland mitigation required for either the Clean Water Act Section 401 State Water Quality Certification program, or the State Regulated Wetland Permitting program.

DEPARTMENT OF INSURANCE

October 3, 2005

Bulletin 134

PATIENT'S COMPENSATION FUND – SURCHARGE RATES FOR HOSPITALS AND PHYSICIANS

This bulletin is directed to all health care providers electing to be qualified under Indiana's Medical Malpractice Act (IC 34-18-1-1 *et seq.*) and to insurers that provide coverage to those health care providers.

Pursuant to IC 34-18-5-2, the Commissioner of the Department of Insurance in his capacity as administrator of the Patient's Compensation Fund hereby notifies physicians and hospitals of the following surcharge for qualification under the Medical Malpractice Act. The rates are effective for coverage beginning **January 1, 2006**.

PHYSICIANS

The percentage increase to the physician rates is the same for each specialty class. A complete list of physician specialty class codes is published at 760 IAC 1-60.

CLASS	ANNUAL RATE
0	\$2,910
1	3,880
2	5,431
3	6,983
4	8,729
5	11,638
6	17,457
7	27,155
8	32,974

HOSPITALS

The surcharge for a hospital is calculated using the attached worksheet. The completed worksheet shall be submitted to the Department along with the surcharge payment.

Nonrule Policy Documents

INDIANA DEPARTMENT OF INSURANCE
James Atterholt, Commissioner

HOSPITAL EXPOSURE WORKSHEET FOR SURCHARGE CALCULATION

Name of Hospital: _____

License No: _____

Attach a list of the following:

- (1) All facilities and/or services operated under the hospital license, as identified on the Department of Health Application for License to Operate a Hospital;
- (2) All assumed business names used by the hospital;
- (3) All employed physicians included in this coverage along with their specialty class code and surcharge computation;

Any entity, person or activity not identified in this surcharge worksheet may not be included in the hospital's coverage with the Patient's Compensation Fund.

CATEGORY	EXPOSURE	MANUAL	TOTAL
Provide # of Beds			Category x Manual=Total
	Hospital (Acute care and Intensive Care)	791.12	
	Mental Health/Rehabilitation	395.56	
	Extended Care/Intermediate Care/Residential	39.44	
	Nursing Home/Critical Extended Care	395.56	
	Health Institution/Assisted Living/Other	157.76	
	Bassinets	791.12	
# of Visits (in 100s)			
	Emergency Room	79.11	
	Clinics/Others	39.56	
	Mental Health/Rehabilitation	19.78	
	Health Institution	15.82	
	Home Health Care	39.56	
Provide # of Surgeries/Births (in 100s)			
	Births	3,164.48	
	Outpatient Surgeries	79.11	
	Inpatient Surgeries	1,582.24	
Employed* Physicians Sharing Limits	75% of Specialty Code		
		SUB-TOTAL	
	Lack of Risk Management Program	10% Penalty x sub-total	
	Hospital with > 500 beds	3% multiplier of subtotal	
		TOTAL DUE	

Definitions:

Hospital bed - licensed hospital beds usually on a short term basis for patients who are need of acute medical treatment and skilled nursing care 24 hours a day (Intensive diagnostic and invasive treatment for acute illness)

Mental Health/ Mental and Physical Acute Rehab bed - Care, diagnosis, and treatment for acute psychiatric, emotionally challenged, and physical handicapped patients needing 24 hour supervision, assistance and treatment.

Extended Care/ Intermediate/ Residential bed- non-acute occasional incidental medical and emergency assistance to residents living independently in retirement apartments and communities. Facilities provided with security and emergency call boxes. Some contact services are available to residents.

Nursing Home/Critical Extended Care bed - A step-down from acute medical care for patients still needing 24 hour nursing care usually for an extended or long term basis. Skilled care services needed such as medication administration, tube feeding, injections, catherizations [sic.] and other procedures ordered by a physician.

Health Institution/ Assisted Living/Other bed- Sub-acute minor health care and related personal services to assist residents on an ongoing and regular basis. Minor nursing care and assistance in such activities as laundry, meal preparations, bathing, social functions.

* Employed physician - A physician is considered an employee for PCF purposes if the hospital withholds and pays Social Security and Medicare taxes and pays unemployment tax on wages paid to the employee. If a physician is treated as an independent contractor for tax purposes then he/she can not be considered an employee for PCF purposes.

**NATURAL RESOURCES COMMISSION
Information Bulletin #46 (First Amendment)**

GEOCACHING ON DNR PROPERTIES

1. Purpose and Application

The purpose of this information bulletin is to provide guidance for the management of geocaching activities on a DNR property. A person who participates in geocaching is subject to 312 IAC 8. A “cache” is a “device” and requires a license from the department under 312 IAC 8-2-10(6)(B). The standards for a license are outlined by this information bulletin.

2. Definitions

- (1) “Cache” means a container that is used in association with geocaching. A cache typically includes items such as a logbook, pen, pencil, map, or trinkets.
- (2) “Department” refers to the department of natural resources.
- (3) “DNR property” has the meaning set forth in 312 IAC 8-1-4(3).
- (4) “Geocaching” means a game pursued by global positioning system (or “GPS”) users. An individual or organization places a cache or caches and shares its or their location on the Internet. A participant in the game applies the GPS coordinates to locate a target cache or caches. When located, the participant records the find on a designated website such as www.geocaching.com. The game may provide that objects are traded at the cache.
- (5) “Multi-cache” refers to containers that are located from information received in another cache.
- (6) “Virtual cache” refers to the target for geocaching for which there is no container. The location itself is the cache. Objects are not traded at the site of a virtual cache.

3. License Applications

- (a) A person must obtain an “official geocaching placement license” on a department form before placing a cache on or within a DNR property. A cache that is placed without first obtaining a license under this information bulletin may be removed by the department and disposed as provided in “Personal Property Found on DNR Properties” (Information Bulletin #23).
- (b) The property manager is authorized to issue, condition, or deny a license application.
- (c) A person who is aggrieved by a determination by the property manager may seek informal review from the division director. A determination by the division director is subject to administrative review under 312 IAC 3-1.

4. General Prohibitions, Limitations, and Requirements

The following prohibitions apply to the placement of any cache and to any geocaching activity:

- (1) A person must not violate 312 IAC 8 or another state or a federal law.
- (2) Properties administered in whole or in part by the following divisions of the department do not qualify for geocaching:
 - (A) Division of nature preserves (including any property dedicated under IC 14-31-1).
 - (B) Division of outdoor recreation.
- (3) A person must not dig or otherwise disrupt the ground when placing a cache.
- (4) A person is limited to a maximum of two (2) official geocaching placement licenses on a particular DNR property at any time.
- (5) The maximum number of caches that can be approved on a DNR property at any time is the lesser of the following:
 - (A) Twenty-five (25); or
 - (B) The number derived by dividing the total acreage of the DNR property by two hundred (200) acres. A DNR property containing fewer than two hundred (200) acres does not qualify for geocaching. This subdivision does not apply to a property administered by the division of museums and historic sites.
- (6) A property manager is not required to approve any multi-cache but may approve not more than five (5) multi-caches under an official geocaching placement license.
- (7) As soon as practicable after placing a cache, the person who holds an official geocaching placement license must record the exact location on the copy of the license maintained by the property manager.
- (8) The person who holds an official geocaching placement license must inspect any cache at least once every six (6) months to help ensure compliance with this information bulletin. During the inspection, the person must remove from the cache any food, alcohol, firearms, drugs, items unsuitable for minors, or other items that may pose a danger to people or wildlife.
- (9) An official geocaching placement license expires one (1) year after the date of issuance.

5. License Standards

The property manager shall exercise reasonable discretion in determining whether to issue, condition, or deny an application for an official geocaching placement license. In the exercise of discretion, the following factors and principles apply:

- (1) A cache cannot be approved for placement in a sensitive archaeological, historical, or ecological area. Examples include historic buildings or structures, caves, or areas that contain rare, threatened, or endangered plant or animals.
- (2) A scheduled resource management activity, such as a timber sale or a prescribed burn, shall be considered in evaluating a license application.
- (3) A cache cannot be approved for placement in an area that could reasonably cause danger to a geocaching participant or to another person who visits the DNR property. Examples of inappropriate areas include cliffs, bluffs, trees, lakes, streams, and roads.
- (4) For inclusion with the license application, the property manager may require a person issued an official geocaching placement license to provide a photograph of the cache, the site where the cache is placed, or both.
- (5) Any other factor reasonably consistent with proper use and protection of the particular DNR property, including implementation of a master plan.
- (6) A virtual cache is exempted from licensing under this information bulletin, but a person who administers or seeks a virtual cache must comply with 312 IAC 8.

6. License Suspension or Revocation and Site Reclamation

- (1) The property manager may suspend or revoke an official geocaching placement license, if a term of the license or of this information bulletin is violated, or if the location of the cache is found to pose a hazard to safety or the environment. The property manager shall make a reasonable attempt to notify the license holder of the action, as well as to notify the designated website. The reasons for the property manager's action shall be recorded with the license. If the license holder elects to relocate the cache, a new license application is required.
- (2) Upon the suspension, revocation, or termination of an official geocaching placement license, the license holder is responsible for removal of the cache, for site restoration, and for any associated expenses. A person who places a cache without a license has the same responsibilities as if issued a license.
- (3) A person who is aggrieved by a suspension or revocation may seek administrative review under 312 IAC 3-1.

7. History

The Natural Resources Commission approved this information bulletin on November 16, 2004. The information bulletin was published initially in the Indiana Register and became effective on January 1, 2005. The Commission approved amendments on September 20, 2005 to include the Division of Museums and Historic Sites among those DNR properties where geocaching placement could be approved. These amendments were effective November 1, 2005.

**NATURAL RESOURCES COMMISSION
Information Bulletin #49
Waterfowl Resting Area**

I. Introduction

Indiana law grants the Department of Natural Resources (DNR) broad authority to manage the fish and wildlife resources of the State of Indiana. With respect to a DNR property, 312 IAC 8-2-1(a) provides that DNR may post a sign to authorize a particular use or close an area to entry by the public and 312 IAC 8-2-1(b) provides that a person must not violate a posted sign. DNR's Division of State Parks and Reservoirs and Division of Fish and Wildlife have posted signs designating certain areas they manage as a "Waterfowl Resting Area." These signs generally prohibit entry by the public and may or may not also include specific dates when entry is prohibited.

The designation of an area as a Waterfowl Resting Area is a wildlife management tool whose general purpose is to provide a place for waterfowl to congregate in an area where disturbance is held to a minimum. In order to accomplish this objective, large areas of land and water need to be set aside and posted. The objective is to limit, but not totally eliminate, access to an area designated or posted as a Waterfowl Resting Area. A Waterfowl Resting Area is not the same as a "Refuge" which is commonly understood to mean an area where access by the public and activities such as hunting are completely prohibited. Each DNR property will also have an established management plan and goals.

The Division of Reservoirs and Division of Fish and Wildlife of DNR have used designated Waterfowl Resting Areas for thirty years. This management tool has been a very effective way of balancing the use of the area by waterfowl hunters and those users that may want to enter the area for other approved activities. With competition for areas by property users with varied interests, this system has been extremely effective and allows the property management personnel to better manage the public's resource for all users and still protect the resources that are entrusted to DNR.

As stated, the primary purpose of designating a Waterfowl Resting Area is to reduce human disturbance and create favorable conditions that in turn will increase use by waterfowl. However, DNR recognizes the public may also have interests that are compatible with secondary uses of a WRA for activities such as hiking, birdwatching, boating, educational field trips, research studies or special hunting, fishing or trapping activities as deemed appropriate by the Property Manager.

The standards below for issuance of licenses are designed to accommodate various reasons why members of the public may want to enter an area designated or posted as a Waterfowl Resting Area.

II. Definitions

As used in this policy document:

“Waterfowl” means a wild goose, brant, or wild duck as defined in Ind. Code 14-22-7-1.

“Waterfowl Resting Area” or “WRA” means an area set aside by the DNR, including land and water, to reduce human disturbance and create favorable conditions for increased use by waterfowl. A WRA may be operated on a permanent or seasonal basis.

III. Policy Statement for Issuance of Licenses

The following standards are established for the issuance of licenses to enter a Waterfowl Resting Area:

1. The individual, group or organization desiring to enter must make a verbal or written request in advance to the DNR property manager or other designated DNR representative. The request must include the:
 - (a) name, address and telephone number of the individual, group or organization;
 - (b) activity or purpose(s) for entering;
 - (c) date and expected duration of the license; and
 - (d) number of persons to be covered by the license.
2. The property manager shall evaluate the request based on the management plan and goals for the particular DNR property for which entry is being sought. The property manager may deny or modify the request if it is not consistent or compatible with:
 - (a) the management plan or goals of the particular DNR property; or
 - (b) any other request to enter the property.
3. A license to enter a Waterfowl Resting Area shall be in writing and note any conditions or limitations determined by the property manager to be appropriate.
4. An individual, group or organization issued a license to enter a Waterfowl Resting Area shall:
 - (a) keep the license in its possession at all times while in the WRA;
 - (b) comply with any conditions or limitations noted on the license; and
 - (c) comply with all applicable federal, state, and local laws.
5. The property manager has the authority to determine dates for special hunts in the WRA that shall require compliance with 312 IAC 8-2-3(c)(2).
6. Each DNR property manager may create forms, keep such records, and implement other procedures deemed necessary to carry out the purposes of this policy.

**DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN # 95
INCOME TAX
OCTOBER 2005**

DISCLAIMER: Information bulletins are intended to provide non-technical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is inconsistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, information provided in this bulletin should serve only as a foundation for further investigation and study of the current law and procedures related to its subject matter.

SUBJECT: Hoosier Business Investment Tax Credit

REFERENCES: IC 6-3.1-26

INTRODUCTION

The Hoosier business investment tax credit (HBITC) was originally passed in 2003 effective for taxable years beginning after December 31, 2003. The statute was amended during the 2005 session of the Indiana General Assembly to expand the entities eligible for the credit, to change the calculation of the credit, and expand the definition of qualified investment.

I. QUALIFIED ENTITIES

A taxpayer is defined as an individual, corporation, partnership or other entity that has a state tax liability.

Pass through entities are defined as S Corporations, partnerships, trusts, limited liability companies, or limited liability

partnerships. If a pass through entity does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to the credit.

II. QUALIFIED INVESTMENTS

The qualified investment is determined to be the amount of a taxpayer's expenditure in Indiana for any of the following items:

- The purchase of, costs associated with modernization of, or the construction of facilities and equipment used for telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution.
- Costs associated with the purchase of machinery, equipment, or special purpose buildings used to make a motion picture or audio production. Motion picture or audio production includes a feature length film, video, television services, commercial, music video or audio recording. The term also includes a corporate production for any combination of theatrical, television, or other media viewing or a television pilot.

Qualified investments include expenditures for onsite infrastructure improvements, and costs associated with retooling existing machinery and equipment. Costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry are also qualified investments.

Property that can be readily moved outside of Indiana does not qualify as a qualified investment.

All qualified investments must be made during the period from January 1, 2004 through December 31, 2007 effective for taxable years beginning after December 31, 2003.

III. CREDIT CALCULATION PRIOR TO MAY 15, 2005

Prior to May 15, 2005 the credit in a taxable year equaled the lesser of thirty percent (30%) of the qualified investment or the taxpayer's state tax liability growth. The following provisions apply to HBITC certifications for a pass through entity prior to May 15, 2005. "State tax liability growth" means the difference between a taxpayer's state tax liability in a taxable year minus the greater of the taxpayer's state tax liability in the most recent prior taxable year or the taxpayer's base state tax liability. "Base state tax liability" means a taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which a taxpayer makes a qualified investment. The base state tax liability amount shall not be adjusted as a result of any net operating loss that could be carried back to the base year. The taxpayer can file an amended return to use a net operating loss deduction, but it will not change the amount of the base state tax liability for purposes of calculating the HBITC.

EXAMPLE: A regular C Corporation (taxpayer) made a qualified investment of \$2,000,000 in 2004. The taxpayer had a state tax liability of \$350,000 in 2003 (base state tax liability). The taxpayer's state tax liability in 2004 was \$520,000. The state tax liability growth is the difference between the current year liability and the base state tax liability (\$520,000-\$350,000=\$170,000). The amount of the credit is the lesser of \$600,000 (30% of the qualified investment (30% multiplied by \$2,000,000=\$600,000)), or the state tax liability growth of \$170,000). The remaining tax credit balance of \$430,000 can be carried forward to future tax years.

A pass through entity by definition is not subject to the adjusted gross income tax, and therefore does not have a state tax liability to calculate a base state tax liability or the amount of state tax liability growth, but the legislation creating the HBITC provides that pass through entities shall be eligible for the credit.

In order for a pass through entity to claim a credit, the pass through entity will calculate a state tax liability based on its Indiana taxable income and the tax liability that would be incurred based on the imputed tax liability of its partners, shareholders, or members.

EXAMPLE: A limited liability company has individuals and a regular C Corporation as members. The individuals represent 80% of the ownership and the Regular C Corporation represents 20%. The members' imputed rate is 4.42% (.8 multiplied by .034) for the individual members and (.2 multiplied by .085) for the Regular C member. This is arrived at by taking the individual members' percent of ownership multiplied by the individual income tax rate, plus the Regular C member's percent of ownership multiplied by the corporate adjusted gross income tax rate.

After the determination of the imputed tax rate is made for the base year, the rate shall be applied to the Indiana taxable income to arrive at the base state tax liability amount. The imputed rate will be recalculated on an annual basis to be used to calculate the state tax liability growth amount and the amount of credit that the entity is eligible to claim.

IV. CREDIT CALCULATION FOR CERTIFICATIONS AFTER MAY 15, 2005

SEA 496-2005 amended the HBITC statute to change the calculation of the credit by eliminating the state tax liability growth as a calculation to be used in determining the amount of the credit that an entity is eligible to receive.

The amount of credit that may be claimed by a taxpayer for a taxable year is a percentage determined by the Indiana Economic Development Corporation (IEDC), not to exceed ten percent (10%) of the amount of the qualified investment made by the taxpayer during the taxable year.

V. ADMINISTRATION OF THE CREDIT

A. Application

A taxpayer that proposes a project to create new jobs or increase wage levels in Indiana shall apply to the IEDC before the taxpayer makes the qualified investment.

B. Amount of Credit

The IEDC shall certify the amount of the qualified investment that is eligible for a credit. The IEDC shall grant a credit that is up to ten percent (10%) of the amount of qualified investment that is directly attributable to expanding the workforce in Indiana.

C. Claiming the Credit

A taxpayer claiming a credit is required to submit to the Department a copy of the certificate of verification when claiming the credit on the tax return filed by the taxpayer. The certificate of verification shall be supplied to the taxpayer by the IEDC.

D. Carry Forward of Credit

A taxpayer is allowed to carry forward an unused credit for the number of years determined by the IEDC, but not to exceed nine (9) consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.

E. Expiration and Time Limitation of Credit

The credit applies to qualified investments made for taxable years beginning after December 31, 2003, and ending on or before December 31, 2007. A taxpayer is not prevented from carrying forward an unused credit to a taxable year beginning after December 31, 2007 for a qualified investment made before January 1, 2008.

For further information concerning this tax credit, contact the Indiana Economic Development Corporation at One North Capitol, Suite 700, Indianapolis, IN 46204.

John Eckart
Commissioner

DEPARTMENT OF STATE REVENUE

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SUPPLEMENTAL LETTER OF FINDINGS: 01-0127; 01-0128

Indiana Corporate Income Tax

For the Years 1996 and 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Applicability of the Throw-Back Rule – Adjusted Gross Income Tax.

Authority: 15 U.S.C.S. § 381; IC 6-3-2-2; IC 6-3-2-2(e); IC 6-3-2-2(n); IC 6-3-2-2(n)(1); IC 6-8.1-5-1(b); Wisconsin Dept. of Revenue v. William Wrigley, Jr., Co., 112 S.Ct. 2447 (1992); 45 IAC 3.1-1-53(5); 45 IAC 3.1-1-64.

Taxpayer argues that the Department of Revenue (Department) erred when it determined that the money taxpayer received from the sale of auto parts to its Illinois customer should have been included in the sales factor numerator.

II. Management Fees and Royalty Payments as Indiana Source Income – Adjusted Gross Income Tax.

Authority: IC 6-3-2-1; IC 6-3-2-2(a); 45 IAC 3.1-1-38; 45 IAC 3.1-1-38(4); 45 IAC 3.1-1-55; Mobil Oil Corp. v. Dep't of Treasury, 373 N.W.2d 730 (Mich. 1985).

Taxpayer maintains that as the out-of-state parent company, the money it received in the form of management fees and royalties from its Indiana manufacturing subsidiary was not subject to Indiana's adjusted gross income tax.

STATEMENT OF FACTS

Taxpayers are in the business of manufacturing and selling original equipment auto parts. Two separate but related entities are involved in this protest. The first entity is the out-of-state parent company; the second entity is the manufacturing subsidiary which operates a production facility within Indiana.

The Department originally conducted an audit review of taxpayers' 1996 and 1997 business records and tax returns concluding that both taxpayers owed additional corporate income tax. Taxpayer manufacturing subsidiary (located in Indiana) argues that the money received from the sale of its auto parts to an Illinois auto manufacturer should not have been "thrown back" to Indiana. Taxpayer parent company (located in Michigan) argues that money received from taxpayer manufacturing subsidiary in the form of management fees and royalties was not subject to Indiana's corporate income tax.

Both taxpayers challenged the audit's conclusions and the assessment of additional income tax. They submitted a protest to that effect, an administrative hearing was conducted, and a Letter of Findings (LOF) was issued denying taxpayers' protest. In the belief that the Department's conclusions set out in the LOF were erroneous, taxpayers asked for and were given the opportunity for a rehearing. The rehearing was held, and this Supplemental Letter of Findings (SLOF) results.

DISCUSSION**I. Applicability of the Throw-Back Rule – Adjusted Gross Income Tax.**

Taxpayer manufacturing subsidiary argues that the Department erred when it “threw back” to Indiana the Illinois sales. Taxpayer manufacturing subsidiary further argues that the LOF compounded the original error when it failed to determine that the sales were subject to Illinois income tax.

The audit determined – and the LOF agreed – that, for purposes of determining taxpayer’s Indiana tax liability, sales of taxpayer’s auto parts to Illinois should be thrown back to Indiana because the sales were made within Illinois where taxpayer (the Indiana manufacturing subsidiary) was not subject to that state’s income tax.

The audit arrived at this conclusion because taxpayer did not have an Illinois situs, Illinois property, Illinois payroll, or an Illinois nexus. The audit found authority for its decision to throw back the Illinois sales at 45 IAC 3.1-1-53(5) which states that “[i]f the taxpayer is not taxable in the state of the purchaser, the sales is attributed to [Indiana] if the property is shipped from an office, store, warehouse, factory, or other place of storage in the state.” These sales are called “throw-back” sales.

The underlying rule is found at IC 6-3-2-2. IC 6-3-2-2(e) provides that “[s]ales of tangible personal property are in this state if... (2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and... (B) the taxpayer is not taxable in the state of the purchaser.” IC 6-3-2-2(n) provides that “[f]or purposes of allocation and apportionment of income... a taxpayer is taxable in another state if: (1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax; or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.” Accordingly, in order to properly allocate income to a foreign state, taxpayer must show that one of the taxes listed in IC 6-3-2-2(n)(1) has been levied against him or that the foreign state has the jurisdiction to impose a net income tax regardless of “whether, in fact, the state does or does not.” *Id.*

Therefore, in order to avoid having the Illinois sales receipts thrown back to Indiana, the taxpayer must show that its Illinois activities are such that it was brought within the orbit of the Illinois tax scheme. In support of the proposition that the sales should be thrown back to Indiana, the audit report noted that the taxpayer did not pay Illinois income tax during 1996 and 1997 and that it had not filed Illinois tax returns during that period. In addition, the audit reported that taxpayer did not maintain an Illinois business location, did not have property within Illinois, and did not have payroll attributable to Illinois.

The fact that taxpayer did not pay Illinois income tax during this period and – in fact – did not even file Illinois returns is useful in resolving the throw-back issue, but it is not determinative. Instead, whether or not Indiana can throw back these sales hinges on whether or not “taxpayer’s business activities are sufficient to give the state jurisdiction to impose a net income tax under the Constitution and statutes of the United States.” 45 IAC 3.1-1-64.

15 U.S.C.S. § 381 (Public Law 86-272) controls those occasions in which a state – such as Illinois – can impose a tax on the net income, derived from sources within that state, received by foreign (out-of-state) taxpayers. 15 U.S.C.S. § 381 sets a minimum standard for the imposition of a state income tax based on the solicitation of interstate sales. Wisconsin Dept. of Revenue v. William Wrigley, Jr., Co., 112 S.Ct. 2447, 2453 (1992). 15 U.S.C.S. § 381 prohibits Illinois from imposing its net income tax on taxpayer if taxpayer’s only business activity within Illinois is the solicitation of sales. Illinois may not impose its net income tax on income received from an out-of-state’s entity’s business activities unless those business activities exceed the “mere” solicitation of sales. Conversely, the effect of Indiana’s throw-back rule is to revert this sales income back to Indiana – by including the destination state sales in taxpayer’s Indiana sales numerator – in those situations where 15 U.S.C.S. § 381 deprives the destination state of the authority to impose a net income tax. 45 IAC 3.1-1-64. In effect, 15 U.S.C.S. § 381 allows Indiana to tax out-of-state business activities, without violating the Commerce Clause and without subjecting taxpayer to double taxation, because Indiana’s right to tax those out-of-state activities is derivative of the foreign state’s own taxing authority. In every sales transaction, at least one state has the constitutional authority to tax income derived from the sale of tangible personal property; if the state wherein the sale occurred is precluded from doing so by 15 U.S.C.S. § 381, then that income may be “thrown back” to the originating state.

Taxpayer maintains that its Illinois activities during 1996 and 1997 brought it within the realm of the Illinois income tax. Specifically, taxpayer notes that it has multiple employees who “work at the customer facility in Illinois to ensure that all the needs and concerns of the customer are addressed.” Taxpayer explains that “[c]ertain of these employees spend 100% of their time at the customer location in Illinois.” Taxpayer concludes that its Illinois “activities were not sporadic, not de minimis, and a proper interpretation of Wrigley could not conclude that these activities are protected by PL 86-272.

During the initial audit – conducted during 1999 – the audit reported that taxpayer’s controller indicated that a “trouble shooter” traveled to Illinois to examine defective auto parts but that this occurred only sporadically. It is apparent that taxpayer and the audit differ as to the extent of the Indiana employees’ involvement in Illinois. The audit found that the employees rarely traveled to Illinois; taxpayer claims that it has Indiana employees who spend 100 percent of their time in Illinois thereby subjecting itself to Illinois income tax.

When a taxpayer challenges a tax assessment, it is up to the taxpayer to demonstrate that the assessment is incorrect. “The notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.” IC 6-8.1-5-1(b). Set up

against the audit's finding that the employees' Illinois activities were *de minimis*, taxpayer has submitted the bare assertion that its employees' involvement with its Illinois customer is considerably more extensive. However, taxpayer has provided nothing specific documenting the extent of this involvement during 1996 and 1997.

The Department is unable to conclude that taxpayer has met its "burden of proving that the proposed assessment is wrong...." Id. Although not conclusive on the issue, the Department finds especially telling the fact that taxpayer itself did not conclude that it was subject to Illinois income tax during 1996 and 1997 and, in fact, did not submit Illinois state income tax returns during that period. The Department is unable to depart from its original conclusion as stated in the LOF; "Taxpayer's sporadic inspection of non-conforming [auto] parts 'is sufficiently *de minimis* to avoid loss of the tax immunity conferred by § 381' The inspection of the auto parts did not void the immunity from Illinois income taxes conferred under 15 U.S.C.S. § 381 and Illinois may not tax these particular receipts."

The Department stands by its original decision that the audit was correct in concluding that the income received from Illinois sales should have been thrown back to Indiana.

FINDING

Taxpayer's protest is respectfully denied.

II. Management Fees and Royalty Payments as Indiana Source Income – Adjusted Gross Income Tax.

Taxpayer parent company (Michigan) and taxpayer manufacturing subsidiary (Indiana) entered into an arrangement by which taxpayer manufacturing subsidiary paid money to taxpayer parent company. Taxpayer parent company agreed to provide taxpayer manufacturing subsidiary with "patented proprietary technology," "ancillary technical services," the right to use taxpayer parent company's trade name, and the right to use proprietary "just in time computer technology." (*Hereinafter* "intellectual property") In return, taxpayer manufacturing subsidiary agreed to produce auto parts which met taxpayer parent company's standards for quality of materials, procedures, and manufacturing methods. Taxpayer manufacturing subsidiary agreed to pay taxpayer parent company a five percent royalty fee based on the invoice price of the auto parts.

Taxpayer parent company also agreed to provide management services to taxpayer manufacturing subsidiary. According to the audit report, taxpayer parent company's personnel visited the Indiana facility, provided engineering services, provided research and development services, and provided various management functions. In return, taxpayer manufacturing subsidiary paid taxpayer parent company a "management fee."

The audit review concluded that taxpayer parent company (Michigan) should have been paying Indiana adjusted gross and supplemental net income tax on the royalties and management fees received from taxpayer manufacturing subsidiary (Indiana). Taxpayer disagreed and submitted a protest. The Department's original LOF concluded that the intellectual property had acquired an Indiana "business situs" and that the provision of management services constituted "income from doing business in this state."

Taxpayer parent company continues to disagree stating that the conclusions set out in the LOF were "both factually and technically incorrect." In regards to the management services agreement, taxpayer claims that there is no evidence that taxpayer parent company ever actually performed any services for its Indiana affiliates; taxpayer parent company states that the management services agreement was in place only to cover the *possibility* that such services would be needed by the Indiana affiliates.

IC 6-3-2-1 imposes a tax on the adjusted gross income derived from "sources within Indiana." IC 6-3-2-2(a) states that adjusted gross income derived from sources within Indiana includes "income from doing business in this state." IC 6-3-2-2(a). 45 IAC 3.1-1-38, in interpreting IC 6-3-2-2(a), provides that for apportionment purposes a taxpayer is "doing business" in Indiana if it operates a business enterprise or activity in Indiana including "[r]endering services to customers in the state." 45 IAC 3.1-1-38(4).

Taxpayer parent company appears to be arguing that the money attributable to the parties' management services contract is not subject to Indiana adjusted gross income tax because taxpayer parent company never actually did anything *within* this state to earn this money. However, questions of taxability are not determined by whether or not the parties to an agreement have struck a satisfactory bargain or whether one of the parties ever performed its part of the bargain. In effect, taxpayer manufacturing subsidiary was simply paying for the assurance that *if* it ever needed these services within the state, taxpayer parent company would be prepared to provide them. If taxpayer parent company never performed any of these services but merely stood ready to provide them, then that assurance was the very service that taxpayer parent company was providing to the Indiana entity.

In this case, taxpayer was providing a service to taxpayer manufacturing subsidiary in return for which taxpayer manufacturing subsidiary paid taxpayer parent company a not insubstantial amount of money. Taxpayer manufacturing subsidiary and taxpayer parent company entered into an agreement by which taxpayer parent company would provide taxpayer manufacturing subsidiary certain "management services." Questions over who got the best of the bargain or whether taxpayer manufacturing subsidiary received \$1 worth of services or \$1,000,000 worth of services are irrelevant; the fact remains that taxpayer parent company received money from an Indiana entity to provide a "service" to that Indiana entity.

In addition, taxpayer continues to assert that the royalties paid for the use of the intellectual property is not subject to adjusted gross income tax. According to taxpayer, the intellectual property never acquired an Indiana situs. Taxpayer contends that only Michigan can include the royalty income within that state's receipts factor. According to taxpayer, the royalty income is "sourced to Michigan under the definition of 'gross receipt.'" However, it should be noted that Michigan exempts royalty income from

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taxation; the Michigan Single Business Tax Act taxes the one which pays royalties, not the one which receives them. *See Mobil Oil Corp. v. Dep't of Treasury*, 373 N.W.2d 730, 742-43 (Mich. 1985).

In order for Indiana to tax the money received from an intangible – such as taxpayer parent company's patents and trademarks – the intangible must have acquired a "business situs" within the state. 45 IAC 3.1-1-55 states that "[t]he situs of intangible personal property is the commercial domicile of the taxpayer... unless the property has acquired a 'business situs' elsewhere. 'Business situs' is the place at which the intangible personal property is employed as capital; or the place where the property is located if possession and control of the property is localized in connection with a trade or business so that substantial use or value attaches to the property."

Taxpayer parent company's commercial domicile is in Michigan. However, by virtue of the royalty agreement between taxpayer parent company and taxpayer manufacturing subsidiary, the intellectual property has acquired a "business situs" within Indiana. Taxpayer parent company licensed taxpayer manufacturing subsidiary to make use of the trademarks and patents within Indiana in conjunction with the manufacture and sale of taxpayer manufacturing subsidiary's auto parts. The "substantial use or value" which attaches to this intellectual property derives from the licensee's right to exploit that intellectual property. The entity which exploits the intellectual property is taxpayer manufacturing subsidiary because it is the licensee in the royalty agreement. As the licensee, taxpayer manufacturing subsidiary exploits that intellectual property within Indiana. The royalties are simply the economic benefits which derive from the ability of taxpayer manufacturing subsidiary to exploit the intellectual property; those economic benefits (the royalties) flow from taxpayer manufacturing subsidiary to taxpayer parent company but these benefits are attributable to the Indiana licensee's activities. Under 45 IAC 3.1-1-55, the trademarks have acquired an Indiana business situs; under IC 6-3-2-2(a), the royalty payments are subject to Indiana's adjusted gross income tax.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

04-20020502.LOF

LETTER OF FINDINGS: 02-0502

Sales and Use Tax

For Tax Period 1995-1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sales and Use Tax—Out-of-state use

Authority: Ind. Code § 6-2.5-3-2; Ind. Code § 6-2.5-3-7

Taxpayer protests the assessment of use tax with respect to display tables that Taxpayer maintains were stored in another state.

II. Sales and Use Tax—Services

Authority: Ind. Code § 6-2.5-4-10

Taxpayer protests the assessment of use tax with respect to tangible personal property that it maintained was under the control of a third party providing installation of other property.

III. Sales and Use Tax—Out-of-state purchases

Authority: Ind. Code § 6-2.5-3-2; Ind. Code § 6-2.5-3-5; Ind. Code § 6-2.5-5-3; Ind. Code § 6-2.5-5-1

Taxpayer protests the assessment of use tax with respect to several items that it maintains were purchased for use outside Indiana.

IV. Sales and Use Tax—Real property improvements

Authority: Ind. Code § 6-2.5-4-9; 45 IAC 2.2-4-21 to -26

Taxpayer protests the assessment of use tax with respect to tangible personal property that was incorporated into real estate.

V. Tax Administration: Negligence Penalty

Authority: Ind. Code § 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the imposition of the ten percent (10%) penalty for negligence.

STATEMENT OF FACTS

Taxpayer is engaged in a variety of industries. Taxpayer operated a number of plants in Indiana and other states during the period in question. During the years in question the Department audited Taxpayer. As a result of the audit, use tax was assessed on a number of items. Several issues were resolved prior to hearing; however, several items remained in dispute. These items included use tax on display tables, items that Taxpayer maintained were for services rather than rental or leasing of tangible personal property,

certain items that Taxpayer maintained were shipped to and used at facilities outside Indiana, and personal property that became part of Taxpayer's Indiana real estate. Taxpayer has also protested the imposition of penalties with respect to its assessment.

DISCUSSION

I. Sales and Use Tax—Out-of-state use

First, Taxpayer argues that its display tables were shipped to Michigan and stored in Michigan. Under Ind. Code § 6-2.5-3-7(a), A person who acquires tangible personal property from a retail merchant for delivery in Indiana is presumed to have acquired the property for storage, use, or consumption in Indiana, unless the person or the retail merchant can produce evidence to the contrary.

Here, Taxpayer's invoice indicates that the tables were shipped to an Indiana address. Accordingly, the presumption exists that the property was used in Indiana within the meaning of Ind. Code § 6-2.5-3-2. Taxpayer has not otherwise provided sufficient information to rebut this presumption. Further, Taxpayer's ordinary procedure, per their representative, was to have property shipped to the location where the property would be used. In this case, Taxpayer shipped the property to Indiana, which lends further support to the auditor's position.

FINDING

Taxpayer's protest is denied.

II. Sales and Use Tax-Services

DISCUSSION

Second, Taxpayer argues that a number of items for which it was assessed use tax actually represented non-taxable services. For instance, Taxpayer argues that it entered into contracts for installation of property. As part of the installation, Taxpayer was charged for several items, including labor charges that Department concedes are not taxable. However, several items appeared on the invoices, including fork trucks, gas welders, and "cutting outfits." The Department concluded that Taxpayer rented or leased tangible personal property in Indiana, and accordingly was responsible for use tax under Ind. Code § 6-2.5-4-10.

Here, Taxpayer has provided sufficient information to conclude that Taxpayer merely purchased for the services of the contractor for installation, rather than the right to the personal property used in the installation process. Accordingly, Taxpayer is sustained.

FINDING

Taxpayer's protest is sustained.

III. Sales and Use Tax-Out of state purchases

DISCUSSION

Third, Taxpayer argues that a number of items for its appliance control facilities, along a handful of computer-related parts, were not shipped into Indiana. Taxpayer argues that its arrangement is to have a plant order the equipment as necessary, and the part is shipped to that plant. Taxpayer operated facilities that required the items in dispute in multiple states, including Indiana. The auditor noted that the parts in question were shipped from another state into Indiana and that no tax was paid to the states where the parts were shipped. If this is the case, Taxpayer is subject to use tax per Ind. Code § 6-2.5-3-2. A credit is allowable for use tax paid to another state per Ind. Code § 6-2.5-3-5; however, Taxpayer indicated that it did not pay sales or use taxes to the other states.

Taxpayer has not provided further information (e.g, parallel purchases for its Indiana facilities, or information that would allow the Department to compare Taxpayer's and Department's respective contentions) that would allow the Department to sustain Taxpayer.

Taxpayer further argues that the items in question were part of its manufacturing process, and accordingly exempt per Ind. Code § 6-2.5-5-3 or -5.1. However, Taxpayer has not provided sufficient information to substantiate this argument.

FINDING

Taxpayer's protest is denied.

IV. Sales and Use Tax-Real property improvements

DISCUSSION

Fourth, Taxpayer argues that several items for which the auditor assessed tax were items that were incorporated into real estate. As a result, Taxpayer argues that the contractor was responsible for payment of sales tax rather than Taxpayer.

Under Ind. Code § 6-2.5-4-9(a), retail purchases of tangible personal property generally are subject to sales and use tax when the purchaser incorporates the personal property into a structure or other facility, and the property becomes part of the structure.

Generally, 45 IAC 2.2-4-21 to -26 create liability for contractors for sales tax for their purchases of tangible personal property to be incorporated into real estate. Here, however, Taxpayer purchased items of tangible personal property. The tangible personal property became part of Taxpayer's realty via installation by a contractor. Taxpayer is the purchaser and user of the tangible personal property in this instance, and accordingly is subject to tax.

FINDING

Taxpayer's protest is denied.

V. Tax Administration: Negligence Penalty

Finally, Taxpayer protests the assessment of negligence penalties with respect to the assessment. The Department may impose a ten percent (10%) negligence penalty. Ind. Code § 6-8.1-10-2.1 and 45 IAC 15-11-2. Taxpayer's failure to timely file income tax returns, generally, will result in penalty assessment. Ind. Code § 6-8.1-10-2.1(a)(1). The Department, however, may waive this penalty if the taxpayer can establish that its failure to file "was due to reasonable cause and not due to negligence." 45 IAC 15-11-2(c). A taxpayer may demonstrate reasonable cause by showing "that it exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed. ..." *Id.* Taxpayer has not made the necessary showing in this case.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220040025.LOF

LETTER OF FINDINGS NUMBER: 04-0025**Corporate Income Tax****For the Years 1999, 2000, and 2001**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE**I. Corporate Income Tax—Net Operating Loss**

Authority: C 6-8.1-5-1(b); IRC § 172.

Taxpayer protests the denial by the Department to apply NOLs from previous years to Taxpayer's current assessment.

II. Penalties

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-2(b) and (c).

Taxpayer seeks an abatement of penalties.

STATEMENT OF FACTS

Taxpayer filed a consolidated gross and adjusted gross income tax return which included three affiliated companies. Audit determined that two of the affiliated companies conducted activities of a financial institution and should have filed Financial Institutions returns; therefore, these two companies should not have been included in corporate income tax returns. Audit excluded the two financial institution affiliates from the gross and adjusted gross income tax returns. This exclusion resulted in assessments of corporate income tax against Taxpayer.

Taxpayer requested that its 1995 - 1997 net operating losses (NOLs) be carried forward to offset income generated in 1999, 2000, and 2001. Taxpayer stated those losses would reduce the assessment by \$3,538. Taxpayer acknowledged in its protest letter that the NOLs from tax years 1995 - 1997 inadvertently were not utilized in tax years 1998 - 2000.

DISCUSSION

All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b).

IRC § 172 allows a deduction for net operating losses. For tax years 1995 - 1997, an NOL could be carried back three years and carried forward fifteen years. An NOL must be carried back before being carried forward unless an election is made to forego the carry back. The election to forego the carry back is found on the federal corporate tax return. *See* Form 1120, Schedule K. A taxpayer must check the box to forego carrying back the NOL. On Taxpayer's 1995/96 federal return, it calculated a loss, but did not check the box on line 14 of Schedule K to forego the carry back. The same is true for 1996 and 1997.

Taxpayer asks that losses from tax years 1995 - 1997 be applied to the current audit assessment. NOLs are applied in a particular way. Taxpayer did not elect to forego carrying back the losses. Additionally, Taxpayer did not utilize the NOLs in tax years 1998 - 2000. Taxpayer has failed to establish the existence of NOLs that could be used to offset the proposed assessment.

FINDING

For the reasons stated above, Taxpayer's protest is denied.

II. Penalties**DISCUSSION**

IC 6-8.1-10-2.1 requires that a penalty be imposed if the tax deficiency results from the taxpayer's negligence. 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each

taxpayer.” *Id.* IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on “reasonable cause and not due to willful neglect.” 45 IAC 15-11-2(c) requires that in order to establish “reasonable cause,” the taxpayer must demonstrate that it “exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed....” Taxpayer has not shown it used the “ordinary business care and prudence” expected of an “ordinary reasonable taxpayer” that would warrant abatement of the negligence penalty.

FINDING

For the reasons stated above, Taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

0420040236.LOF

LETTER OF FINDINGS NUMBER: 04-0236

Sales and Use Tax

For the Periods 2000 & 2001 and 2002

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department’s official position concerning a specific issue.

ISSUE

I. Sales Tax—Requirement to calculate and collect sales tax on retail transactions

Authority: IC 6-8.1-5-1(b); IC 6-2.5-2-1; IC 6-2.5-4-1.

Taxpayer protests the assessment of sales tax due.

STATEMENT OF FACTS

Taxpayer’s principal business activity is the manufacturing of various signs. These signs include aluminum signs, illuminated signs, single-faced and double-faced wooden signs, coroplast signs, sandwich signs, and magnetic signs. The signs are sold over the counter and in some instances the signs are installed by Taxpayer. Taxpayer’s sales also include vinyl letters & numbers, lettering of customers’ vehicles, banners, show cards, billboards, sandblasting, trade booth logos, name plates, and car plates.

Taxpayer was not registered as a retail merchant for the years covered by the audit. Taxpayer stated that when he first opened the business in 1989, he contacted the Department and was told he did not need to register and collect sales tax. It was his understanding that he should pay sales tax on all materials he purchased. Taxpayer does not remember who gave him this information; neither does Taxpayer have anything in writing from the Department to support his statements.

A review of sales invoices revealed sales of tangible personal property on which no sales tax was charged or collected by Taxpayer. An adjustment was made to assess sales tax on all tangible personal property sold. Items taxed included aluminum signs, illuminated signs, single-faced and double-faced wooden signs, coroplast signs, sandwich signs, magnetic signs, banners, and other miscellaneous items.

Taxpayer also had service receipts which were not taxed in the audit, as in accord with Indiana statutes.

Sales tax due was assessed on all taxable retail transactions. Credit was given to Taxpayer on the purchase invoices on which Taxpayer paid sales tax when he purchased the items, but which were resold to his customers.

Taxpayer filed a protest and a hearing was held.

I. Sales Tax—Requirement to withhold and submit sales tax

DISCUSSION

All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). IC 6-2.5-2-1 imposes sales tax on retail transactions made in Indiana and a retail merchant is required to collect the tax as agent for the state. IC 6-2.5-4-1 defines a retail transaction as the acquisition of tangible personal property for resale to a customer for consideration. When tangible personal property is transferred to a customer, sales tax is to be calculated and collected.

Taxpayer stated in his protest letter that he operates a small sign painting and manufacturing company that began in 1989. Taxpayer stated that the business began with most of the work being the labor-intensive painting of custom signs and billboards. Taxpayer further stated that when he opened the business, he phoned the Department of Revenue for instructions on collecting sales tax. He explained that his work consisted of painting signs and billboards and that his prior experience had been that sales tax is paid when the sign company he had worked for purchased supplies. Taxpayer recalls being told that this is correct, except when the supplies purchased are significant items of the sign, then materials and labor should be stated separately and sales tax remitted on the materials, less any tax paid on the original purchase. Unfortunately, no documentation exists of this interaction with the Department. Taxpayer paid sales tax on his material purchases and thought he was not meeting the criteria for collecting sales tax.

At the hearing, Taxpayer explained that the business has expanded over the years and that he continued to rely on the

information he had received from the Department in 1989. It needs to be noted, that based on what Taxpayer informed the Department his business activities would be, the information provided was sound. However, Taxpayer's business has expanded and at the time of the audit significant retail transactions were occurring upon which sales tax should have been calculated and collected from customers. Taxpayer's business evolved from painting signs into selling signs and sign materials. The Taxpayer's representative conceded at the hearing that Taxpayer's business had expanded and that Taxpayer had been relying upon information obtained from the Department years earlier. Taxpayer sold signs and sign materials at retail and sales tax needed to have been calculated and collected from the customers.

FINDING

For the reasons stated above, Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420040323.LOF

0420040324.LOF

LETTER OF FINDINGS NUMBER: 04-0323 and 04-0324

Sales and Use Tax

For the Periods 2001 - 2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales Tax—Shipping charges

Authority: IC 6-8.1-5-1(b); IC 6-2.5-2-1; 45 IAC 2.2-4-1(b); 45 IAC 2.2-4-3.

Taxpayer protests the assessment of sales tax due on shipping charges listed on its invoices to customers.

STATEMENT OF FACTS

Taxpayer has two primarily lines of business. First, it is a forms distributor, acting as a retailer of various business forms that are printed by its vendors. Taxpayer outsources the order to various vendors that make the product and then ship it to Taxpayer's customers. Second, Taxpayer is an in-house print shop. It makes printed booklets, programs, continuous forms, carbonless forms, business checks, letterheads, envelopes, brochures, banners, and labels. The business activity is sales and the product is printing.

An audit was conducted and the Department noted that Taxpayer had not charged sales tax, when applicable, on shipping and handling charges. The Department assessed Taxpayer the sales tax due. Taxpayer filed a protest and a hearing was held.

I. Sales Tax—Shipping charges

DISCUSSION

All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). IC 6-2.5-2-1 imposes sales tax on retail transactions made in Indiana and a retail merchant is required to collect the tax as agent for the state. Under Indiana statutes and regulations, any and all charges prior to delivery are subject to sales tax if the transaction is taxable. Taxpayer's invoices have a separate line—marked "SHIPPING & HANDLING"—for shipping and handling charges.

45 IAC 2.2-4-1(b) states that all elements of consideration are included in gross retail income subject to tax; elements of consideration include, any additional bona fide charges added to or included in the price for preparation, fabrication, alteration, modification, finishing, completion, or delivery. 45 IAC 2.2-4-3 states that separately stated delivery charges are considered part of selling at retail and are subject to sales tax if the delivery is made by or on behalf of the seller of the property. The regulation also includes guidelines based upon F.O.B. But these guidelines do not apply because Taxpayer did not separately state delivery charges on its invoices, but instead included the delivery charges under the combined line item, "SHIPPING & HANDLING." This combined charge is taxable under 45 IAC 2.2-4-1(b).

Taxpayer argued at the hearing that it can show that the shipping and handling line item charge was the pass-through cost to ship the items via UPS or other delivery carriers. While this may be true, Taxpayer listed the charged under a combined line item for preparation and delivery, not a separately stated line items for delivery only. Taxpayer rebutted by stating that it used preprinted invoices with a line item marked "SHIPPING & HANDLING." While this may be true and may be an industry standard preprinted form, Taxpayer was not bound to have to use that preprinted line, but could have separately stated the delivery charge on the invoice to indicate the charge was for delivery or freight alone.

FINDING

For the reasons stated above, Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0320040332.LOF

LETTER OF FINDINGS NUMBER: 04-0332

**Responsible Officer
Periods of 2002 and 2003**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Withholding Tax: Responsible Officer Liability

Authority: IC 6-2.5-9-3; IC 6-3-4-8; IC 6-8.1-5-1 (b); Indiana Department of Revenue v. Safayan 654 N.E.2d 270, 273 (Ind.1995).

The taxpayer protests the proposed assessment of responsible officer liability for withholding taxes.

STATEMENT OF FACTS

The taxpayer was the Vice President of a business (hereinafter "Company X"). Her former husband was President of Company X. More facts will be provided as needed below.

I. Withholding Tax: Responsible Officer Liability

DISCUSSION

____ The proposed withholding taxes were assessed against taxpayer pursuant to IC 6-3-4-8(f), which states in part that "All money deducted and withheld by an employer shall immediately upon such deduction be the money of the state, and every employer who deducts and retains any amount of money ... shall hold the same in trust for the state of Indiana..." Also of import is Indiana Department of Revenue v. Safayan, 654 N.E.2d 270, 273 (Ind.1995), which states "The statutory duty to remit trust taxes falls on any officer or employee who has the authority to see that they are paid." Finally, under IC 6-8.1-5-1(b) Indiana Department of Revenue proposed assessments are "prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made."

Regarding Company X, the taxpayer states that for the years "2002 and 2003, [taxpayer] was not:

- A. A shareholder in such business;
- B. An employee of such business, either as an officer, director or regular employee; and
- C. All interest in such business had been awarded to her husband in July 2001, pursuant to Decree of Dissolution of their marriage ... and while [taxpayer's] former husband was to pay her for that interest, she never received a dime and her husband ended up taking bankruptcy."

Additionally, the taxpayer argues that "Even prior to 2001, [taxpayer] had no real participation in that business" and the title of "Vice President" was only a nominal title. Taxpayer asserts that she "was not in charge of any other employees, did not write any checks on the business, including payroll checks for employees, nor did she fill out any withholding forms or do any real book work for the company." To buttress her case that she is not responsible for the trust taxes, taxpayer cites to the deposition testimony of her former husband. In relevant part, the taxpayer's spouse testified while deposed to the following:

Q: What position did your former wife have in that business?

A: She was the vice president.

Q: What did she do? What did she do as vice president?

A: She did nothing.

And further:

Q: You were the guy that wrote the checks and paid the bills...

A: For [Company X].

Q: Basically, she didn't do anything but have a title and you're the one that ran the business?

A: Exactly.

Q: And it's consequence because you were the guy that ran the business. This was basically your business she didn't have squat to do with it. She basically had a title and that was about it...

A: Right, because she was married to me.

Q: So you had to pay the 9-40s [sic] and the 9-41s [sic] and all that kind of stuff. That was your responsibility?

A: Yes, and the job that she was supposed to do she didn't do and I had to ask...I paid a secretary eight (\$8.00) bucks an hour to do it later on....

Taxpayer states that her spouse "was the person solely in charge of employee compensation and 940's and 941's and any of the recordkeeping of the business and payment of the bills, taxes, etc. Taxpayer knew nothing of these matters." Taxpayer also

provided faxed copies of the Dissolution Settlement Agreement, dated for July of 2001, and a Decree of Dissolution also dated for July of 2001.

The Department also argues that IC 6-8.1-10-9 is applicable (which would also make the taxpayer liable for IFTA taxes for 2003). In relevant part, that statute states:

(c) Unless a clearance is issued under subsection (g), for a period of one (1) year following the filing of the form of notification with the department, or the filing of all necessary tax returns as required by this title, including the final tax return, whichever is later, the *corporate officers and directors remain personally liable*, subject to IC 23-1-35-1(e) or IC 23-17, for any acts or omissions that result in the distribution of corporate assets in violation of the interests of the state or a political subdivision (as defined in IC 36-1-2-13). An officer or director held liable for an unlawful distribution under this subsection is entitled to contribution:

- (1) from every other director who voted for or assented to the distribution, subject to IC 23-1-35-1(e) or IC 23-17; and
- (2) from each shareholder for the amount the shareholder accepted.

(d) The corporation's *officers' and directors' personal liability* includes all taxes, penalties, interest, and fees associated with the collection of the liability due the department or the county. In addition to the penalties provided elsewhere in this title, a penalty of up to thirty percent (30%) of the unpaid tax may be imposed on the corporate officers and directors for failure to take reasonable steps to set aside corporate assets to meet the liability due the department or the county.

(Emphasis added).

IC 23-1-35-1(e) states:

A director is not liable for any action taken as a director, or any failure to take any action, unless:

- (1) the director has breached or failed to perform the duties of the director's office in compliance with this section; and
- (2) the breach or failure to perform constitutes willful misconduct or recklessness.

A "Summary of Business Entity Information" from the Indiana Secretary of State notes that the company was "Voluntarily Dissolved," and that the "Date Terminated" for the company was July 11, 2003. The "Summary" does not list the taxpayer as the registered agent, president, or secretary. The taxpayer is only listed on the "Summary" as an incorporator. The "Summary" also notes the following: "Entity Reports: 1997/1998, 1999/2000, 2001/2002-."

The "Summary" does not show the taxpayer as a corporate officer or director as of the last "entity report" date. And, as noted earlier regarding Company X, the taxpayer has stated that for the years "2002 and 2003, [taxpayer] was not:

- A. A shareholder in such business;
- B. An employee of such business, either as an officer, director or regular employee; and
- C. All interest in such business had been awarded to her husband in July 2001, pursuant to Decree of Dissolution of their marriage ... and while [taxpayer's] former husband was to pay her for that interest, she never received a dime and her husband ended up taking bankruptcy."

FINDING

The taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0420040350.LOF

LETTER OF FINDINGS NUMBER: 04-0350

Sales and Use Tax For Tax Years 2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales and Use—Aircraft Purchase

Authority: 45 IAC 2.2-4-27; 45 IAC 2.2-5-15; Black's Law Dictionary 898 (7th ed. 1999)

Taxpayer protests the imposition of sales tax on the purchase of an aircraft.

STATEMENT OF FACTS

Taxpayer purchased an aircraft, but did not pay sales tax on the purchase. Taxpayer claimed that the purchase was exempt from sales tax because the aircraft was to be used for rental or leasing to others. The Indiana Department of Revenue ("Department") conducted an investigation regarding the rental or leasing of the aircraft and determined that there was insufficient evidence to support the claim of rental or leasing as the use of the aircraft. As a result of this investigation, the Department denied the claim for exemption

and issued a proposed assessment for use tax on the purchase of the aircraft. Taxpayer protests the assessment. Further facts will be supplied as required.

DISCUSSION

I. Sales and Use—Aircraft Purchase

Taxpayer protests the imposition of sales tax on its purchase of an aircraft in 2003. Taxpayer paid one million, five hundred ninety-five thousand dollars (\$1,595,000.00) for the aircraft. The Department compared a non-related aircraft rental company’s rate of one thousand dollars per hour (\$1,000.00/hour) for the same type of aircraft, to the rate of thirty-five hundred dollars per month (\$3,500.00/month) taxpayer charged for its aircraft. The rental rate was far below the market rate and took no measure of actual usage. The aircraft could only be used 3.5 hours per month to meet the market rate. Taxpayer provided records indicating far more than 3.5 hours use for most months. Also, the same individual signed the lease as both lessor and lessee. The Department determined that taxpayer was not renting the aircraft and denied the exemption.

The exemption at issue is found in 45 IAC 2.2-5-15, which states:

(a) The state gross retail tax shall not apply to sales of any tangible personal property to a purchaser who purchases the same for the purpose of reselling, renting or leasing, in the regular course of the purchaser’s business, such tangible personal property in the form in which it is sold to such purchaser.

(b) General rule. Sales of tangible personal property for resale, renting or leasing are exempt from tax if all of the following conditions are satisfied:

- (1) The tangible personal property is sold to a purchaser who purchases this property to resell, rent or lease it;
- (2) The purchaser is occupationally engaged in reselling, renting or leasing such property in the regular course of his business; and
- (3) The property is resold, rented or leased in the same form in which it was purchased

(c) Application of general rule.

- (1) The tangible personal property must be sold to a purchaser who makes the purchase with the intention of reselling, renting or leasing the property. This exemption does not apply to purchasers who intend to consume or use the property or add value to the property through the rendition of services or performance of work with respect to such property.
- (2) The purchaser must be occupationally engaged in reselling, renting or leasing such property in the regular course of his business. Occasional sales and sales by servicemen in the course of rendering services shall be conclusive evidence that the purchaser is not occupationally engaged in reselling the purchased property in the regular course of his business.
- (3) The property must be resold, rented or leased in the same form in which it was purchased.

45 IAC 2.2-5-15(b) requires that three conditions be met in order to qualify for the exemption. One condition is 45 IAC 2.2-5-15(b)(2), which states that the purchaser must be occupationally engaged in reselling, renting or leasing such property in the regular course of his business. The Department notes that a single individual signed as both lessee and lessor on the leasing agreement. A lease is defined as “[a] contract by which the rightful possessor of personal property conveys the right to use that property in exchange for consideration.” Black’s Law Dictionary 898 (7th ed. 1999). The parties’ agreement reflected the fact that lessee never expected to pay consideration sufficient to justify recognizing the agreement as a lease. This shows that taxpayer was not occupationally engaged in reselling, renting or leasing the aircraft in the regular course of its business.

Under these circumstances, taxpayer does not satisfy 45 IAC 2.2-5-15-(b)(2) and does not qualify for the leasing exemption.

Taxpayer protests that the Department did not look carefully enough at the method taxpayer used to compute the rental rate. Taxpayer explains that it used a formula that took into account the cost of capital, the tax depreciation benefit and the obsolescence factor. Taxpayer assumes that the Department compared rates that included costs for maintenance, hangar, insurance and possibly fuel costs, which taxpayer explains were paid by its lessee.

The Department refers to 45 IAC 2.2-4-27(d), which states in relevant part:

The rental or leasing of tangible personal property, by whatever means effected and irrespective of the terms employed by the parties to describe such transaction, is taxable.

- (1) Amount of actual receipts. The amount of actual receipts means the gross receipts from the rental or leasing of tangible personal property without any deduction whatever for expenses or costs incidental to the conduct of the business. The gross receipts include any consideration received from the exercise of an option contained in the rental or lease agreement; royalties paid, or agreed to be paid, either on a lump sum or other production basis, for use of tangible personal property; and any receipts held by the lessor which may at the time of their receipt or some future time be applied by the lessor as rentals.

...

This regulation means that taxpayer was required to collect sales tax on all consideration it received from its customer for lease of the aircraft. Taxpayer was not collecting sales tax on the consideration it received from its customer when the customer paid for insurance, hangar, fuel, and maintenance. This is further evidence that taxpayer’s relationship with its customer was not a valid lessor/lessee relationship.

Nonrule Policy Documents

Taxpayer states that even if the rental rate was too low, the proper remedy would be to adjust the rental rate, not to disallow the rental exemption. Taxpayer has provided no citation to any statute or regulation to support its position that the proper remedy would be to adjust the rental rate. 45 IAC 2.2-5-15 simply states what the exemption is. The only options are to either approve or deny the exemption. There is no provision to retroactively adjust the rental rate in order to bring taxpayer into compliance.

In conclusion, taxpayer was not leasing the aircraft at a fair market rate. The rental rate and period did not reflect actual usage. There is no provision in 45 IAC 2.2-5-15 to retroactively adjust the rental rate. Taxpayer applied for an exemption and did not qualify. The Department properly denied the claim.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0320040379.LOF

LETTER OF FINDINGS NUMBER: 04-0379

Income Tax Withholding For the Years 1997 - 2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Income Tax Withholding—Employees compared to Independent Contractors

Authority: IC 6-8.1-5-1(b); IC 6-3-4-8, IC 6-3-1-5, IC 6-3-1-6, GKN Co. v. Magness, 744 N.E.2d 397 (Ind. 2001), Information Bulletin #52.

Taxpayer asserts that he hired independent contractors and not employees—and thus was not required to withhold Indiana state and local income taxes.

STATEMENT OF FACTS

Taxpayer rents gaming tables and provides the dealers for the tables as entertainment for corporate events. The games include blackjack, craps, roulette, Caribbean stud poker, Let-it-Ride, and money wheel. A withholding tax audit was completed and the Department assessed state withholding tax and county withholding tax—determining that Taxpayer hired employees, not independent contractors. Taxpayer filed a protest and a hearing was held.

I. Income Tax Withholding—Employees compared to Independent Contractors

DISCUSSION

All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). IC 6-3-4-8 requires an employer to deduct and withhold from each employee's wages the Indiana adjusted gross income tax and any county income tax due. The employer is required to submit those withheld taxes to the Department. *See id.* If an employer fails to withhold state and local income taxes on wages paid to employees, the taxes are assessed against the employer and the employer is liable to pay them. *See id.*

IC 6-3-1-5 defines "employer" as defined in section 3401(d) of the Internal Revenue Code. IC 6-3-1-6 defines "employee" as defined in section 3401(c) of the Internal Revenue Code. Since Indiana tax code ties its definitions of "employer" and "employee" to the definitions given in federal tax code, it is appropriate to use the IRS guidelines to determine whether Taxpayer's workers were employees or independent contractors.

The IRS has developed a 20 factor guideline—based on the common law—to help determine whether a worker is an employee or an independent contractor. The Department's audit report summarized the 20 factors and the ones bolded below are the factors that the auditor noted as applying to Taxpayer:

- 1. Must comply with employer's instructions about work**
2. Receive training from, or at the direction of, the employer
- 3. Provide services that are integrated into the business**
- 4. Provide services that must be rendered personally**
5. Hire, supervise, and pay assistants for the employer
- 6. Have a continuing working relationship with the employer**
- 7. Must follow set hours**
8. Work full-time for the employer
9. Do their work on the employer's premises

10. Must do their work in a sequence set by the employer
11. Must submit regular reports to the employer
12. Receive payments of regular amounts at set intervals
13. Receive payments for business or traveling expenses
- 14. Rely on the employer to furnish tools and materials**
- 15. Lack a major investment in facilities used to perform service**
- 16. Cannot make a profit or suffer a loss from their services**
17. Work for one employer at a time
18. Do not offer their services to the public
19. Can be fired by the employer
- 20. May quit work anytime without incurring a liability**

Not all the 20 factors apply to a particular situation, but are applied when relevant. In this case, the workers do rely on Taxpayer to furnish the gaming tables, cards, dice, and other equipment. Taxpayer confirmed this. The furnishing of these tools and equipment by Taxpayer to the dealers is a strong indicator that these are employees. The services provided by the workers are integrated into Taxpayer's business; Taxpayer supplies the gaming equipment and often times also is responsible to provide dealers. The gaming tables and the dealers are an integrated and interconnected part of rendering the event services. Concerning rendering services personally, Taxpayer stated that he calls those who have worked for him before whom he liked the quality of their work, and also has asked if they know others who can work the tables. Calling the person is a request for personal services; asking for referrals for others is common among employers when seeking additional employees.

Taxpayer stated that when the workers arrive and ask where to they need to go, he tells them to find a table they like; he does not assign them to tables. Taxpayer forwards that this practice is indicative that the workers are not given directions by him. As well, Taxpayer stated that he does not set the hours a dealer needs to work when he contacts them, but merely states to them when the event is to begin and to end; they can choose when to arrive and leave. However, implicit in stating the hours of the event is a direction by him as to the hours he expects them to be there.

Taxpayer has acted in good faith to try establish the workers as independent contractors. He has each dealer sign an agreement when arriving to work an event which states:

- 1. The undersigned shall be deemed an independent contractor and is not an employee, partner, agent, or engaged in a joint venture with [Taxpayer].**
- 2. Consistent with the foregoing, [Taxpayer] shall not deduct withholding taxes, FICA, or any other taxes required to be deducted by an employer, as I acknowledge my responsibility to pay the same as an independent contractor.**
- 3. I further acknowledge that I shall not be entitled to any fringe benefits, pension, retirement, profit sharing, or any benefits accruing to employees.**

However, the determination of whether a worker is an employee or independent contractor is not made by the statements and agreements of the parties, but by the substance of the relationship. In *GKN Co. v. Magness*, 744 N.E.2d 397, 402 (Ind. 2001), the court stated, "Determining whether an employer-employee relationship exists ultimately is a question of fact." Despite Taxpayer setting out and adhering to the formalities of employing independent contractors, these workers are employees. Taxpayer's business is based on a continuous and systematic employment of dealers to work the tables at the events. Despite the fluctuations of business and the turnover of available dealers, Taxpayer's business is integrated to provide gaming equipment and dealers at events. Many dealers have a continuing working relationship with Taxpayer from event to event.

It is understandable based on the fluctuations of business why Taxpayer chose to deeming the dealers as independent contractors. But the substance of the relationship is as employer and employee. Taxpayer pays a set hourly rate to the dealers; the dealers do not submit bids for compensation.

The Department has issued Information Bulletin #52, which outlines the tax withholding requirements from part-time, temporary, or seasonal employees. The Bulletin, in all versions, has stated that withholding agents are required to withhold both state income tax and county income tax from the income of all employees, including part-time, temporary, or seasonal employees. The bulletin as states that the fact that the employee will not earn in excess of their \$1,000 exemption has no bearing on the withholding by the withholding agent. As well, the IRS, which allows an employee to waive withholding for federal tax purposes when the income is not expected to exceed the federal filing requirements and income allowances, has no bearing on the withholding of taxes from the income of employees for Indiana tax purposes.

As stated in this letter of findings, the volume and frequency of Taxpayer's business varies. Depending on the size and desires of each event, Taxpayer may need a few gaming tables or many. And each table needs a dealer. As well, the booking of events varies depending upon the time of the year. Taxpayer stated at the hearing, there are times when he has had five events booked for the same day, and at other times, the calendar has had few bookings. But despite the fact that the dealers are employed on a part-time, temporary, or seasonal basis, Taxpayer is required to withhold the state and local income taxes from each employee's wages.

The dealers are employees, not independent contractors; Taxpayer was required to have withheld state and local income taxes

and remitted those taxes to the Department.

FINDING

For the reasons stated above, Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420040438.LOF

LETTER OF FINDINGS NUMBER: 04-0438

Sales and Use Tax

For the Years 2000-2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sales and Use Tax-Imposition

Authority: IC 6-8.1-5-1 (b), IC 6-2.5-3-2 (a), IC 6-2.5-5-8.

The taxpayer protests the imposition of use tax.

II. Tax Administration-Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b)

The taxpayer protests the imposition of the ten (10%) percent negligence penalty.

STATEMENT OF FACTS

The taxpayer is a corporation operating a health food store. The taxpayer offers vitamins, health food, herbs, cosmetics, Swedish massage and dietary counseling. After an audit for the tax period 2001-2003, the Indiana Department of Revenue assessed additional use tax, interest and penalty for the years 2001 and 2002. The taxpayer protested the assessments and a hearing was held. This Letter of Findings results.

I. Sales and Use Tax-Imposition

DISCUSSION

All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b). Indiana imposes an excise tax on tangible personal property stored, used, or consumed in Indiana when it was purchased in a retail transaction and no sales tax was paid at the time of purchase. IC 6-2.5-3-2 (a).

The department assessed use tax on the taxpayer's payments to credit card companies when the taxpayer was not able to substantiate that sales tax was paid on the purchases or that the purchases had been used in an exempt manner. At the hearing the taxpayer produced copies of many credit card monthly statements. Each of these monthly statements showed that the payments taxpayer made in that month were payments on the account, interest and service fees. These payments did not indicate the purchase and use of tangible personal property at the time the payment was made. Payments on credit card account balances, interest and service fees are not subject to the use tax.

Some of the credit card monthly statements indicated that the taxpayer also purchased tangible personal property such as vitamins along with paying on the account balance, interest and service fees. The taxpayer contended that these items were exempt from the use tax pursuant to IC 6-2.5-5-8 because they were purchased for resale. The taxpayer has the burden of proving that these items were actually resold in the business. The taxpayer failed to produce any documentation substantiating its contention that these items qualified for this exemption. Therefore the taxpayer's protest to the use tax assessed on these items is denied.

The department also assessed use tax on the taxpayer's use of blinds in the store. The taxpayer produced a receipt indicating that sales tax was paid for the blinds at the time of purchase. Therefore, the use tax was improperly imposed on the taxpayer's use of the blinds.

The department also assessed use tax on the taxpayer's use of a magazine subscription. The taxpayer purchased the magazines in a retail transaction, used the magazines in Indiana and did not pay sales tax on them at the time of purchase. Therefore, the use tax was properly imposed.

FINDING

The taxpayer's protest is sustained in part and denied in part.

II. Tax Administration-Penalty

The taxpayer protested the imposition of the ten percent (10%) negligence penalty pursuant to IC 6-8.1-10-2.1. Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be

expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer had no sales or use tax due for one year of the three year audit and had only a minimal amount of use tax due for the other two years. Examination of the facts and circumstances of the taxpayer's situation indicates that the taxpayer exercised due diligence and was attentive to its duties in the collection and remittance of sales and use taxes to the state.

FINDING

The taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0420040442.LOF

LETTER OF FINDINGS NUMBER: 04-0442

**Sales and Use Tax
For Tax Years 2004**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales and Use—Aircraft Purchase

Authority: Gregory v. Helvering, 293 U.S. 465 (1935); IC 6-2.5-2-1; IC 6-2.5-5-8; IC 6-6-6.5-9; IC 6-8.1-10-4; 45 IAC 2.2-5-15; 45 IAC 2.2-4-27; Horn v. Commissioner of Internal Revenue, 968 f.2d 1229 (D.C. Cir. 1992); Commissioner v. Transp. Trading and Terminal Corp., 176 F.2d 570 (2nd Cir. 1949); Black's Law Dictionary (7th ed. 1999)

Taxpayer protests the imposition of sales tax on the purchase of an aircraft.

STATEMENT OF FACTS

Taxpayer purchased an aircraft, but did not pay sales tax on the purchase. Taxpayer claimed that the purchase was exempt from sales tax because the aircraft was to be used for rental or leasing to others. The Indiana Department of Revenue ("Department") conducted an investigation regarding the rental or leasing of the aircraft and determined that there was insufficient evidence to support the claim of rental or leasing as the use of the aircraft. As a result of this investigation, the Department denied the claim for exemption and issued a proposed assessment for use tax on the purchase of the aircraft. Taxpayer protests the assessment. Further facts will be supplied as required.

DISCUSSION

I. Sales and Use—Aircraft Purchase

Taxpayer purchased an aircraft for two hundred thirty one thousand, six hundred and ninety five dollars (\$231,695.00) and claimed a sales tax exemption. The Department compared a non-related aircraft rental company's rate for the same type of aircraft, to the rate taxpayer charged for its aircraft. The rental rate was far below the market rate. The Department determined that taxpayer was not renting the aircraft and denied the exemption. Taxpayer protests the denial.

Taxpayer states that the aircraft was used for rental to others, and therefore was exempt from sales tax under IC 6-2.5-5-8(b), which states:

Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business.

Taxpayer states that it is in the aircraft rental and leasing business. A review of the paperwork taxpayer filed with the Department reveals that the lessee corporation did not register with the Department as a separate entity, but rather as a DBA ("Doing Business As") under the lessor's Taxpayer Identification Number (TID) and Federal Identification Number (FID). In other words, here there was one business with two different names. Renting an aircraft from one branch of a business to another branch of that same business doing business under a different name does not qualify for the exemption provided in IC 6-2.5-5-8(b).

Further guidance is found in 45 IAC 2.2-5-15, which states:

(a) The state gross retail tax shall not apply to sales of any tangible personal property to a purchaser who purchases the same for the purpose of reselling, renting or leasing, in the regular course of the purchaser's business, such tangible personal property in the form in which it is sold to such purchaser.

(b) General rule. Sales of tangible personal property for resale, renting or leasing are exempt from tax if all of the following

conditions are satisfied:

- (1) The tangible personal property is sold to a purchaser who purchases this property to resell, rent or lease it;
- (2) The purchaser is occupationally engaged in reselling, renting or leasing such property in the regular course of his business; and
- (3) The property is resold, rented or leased in the same form in which it was purchased

(c) Application of general rule.

- (1) The tangible personal property must be sold to a purchaser who makes the purchase with the intention of reselling, renting or leasing the property. This exemption does not apply to purchasers who intend to consume or use the property or add value to the property through the rendition of services or performance of work with respect to such property.
- (2) The purchaser must be occupationally engaged in reselling, renting or leasing such property in the regular course of his business. Occasional sales and sales by servicemen in the course of rendering services shall be conclusive evidence that the purchaser is not occupationally engaged in reselling the purchased property in the regular course of his business.
- (3) The property must be resold, rented or leased in the same form in which it was purchased.

Taxpayer states that it was in the business of leasing aircraft and therefore qualifies for the exemption provided by 45 IAC 2.2-5-15. 45 IAC 2.2-5-15(b) requires that three conditions be met in order to qualify for the exemption. One condition is 45 IAC 2.2-5-15(b)(2), which states that the purchaser must be occupationally engaged in reselling, renting or leasing such property in the regular course of his business. The Department notes that a single individual signed as both lessee and lessor on the leasing agreement. Combined with the rental rate far below normal market rates, this shows that taxpayer was not occupationally engaged in reselling, renting or leasing the aircraft in the regular course of its business. Under these circumstances, taxpayer does not satisfy 45 IAC 2.2-5-15(b)(2) and does not qualify for the leasing exemption.

Next, taxpayer explains that its customer paid a lower lease rate because it was paying other expenses which, when added to the lease rate, brought the total customer paid closer to comparable lease rates. Taxpayer explains that, under the “dry lease”, the lessee was responsible for paying expenses such as insurance, hangar, fuel, maintenance and crew. This supposedly brought the leasing costs to appropriate levels. 45 IAC 2.2-4-27(d) states in relevant part:

The rental or leasing of tangible personal property, by whatever means effected and irrespective of the terms employed by the parties to describe such transaction, is taxable.

- (1) Amount of actual receipts. The amount of actual receipts means the gross receipts from the rental or leasing of tangible personal property without any deduction whatever for expenses or costs incidental to the conduct of the business. The gross receipts include any consideration received from the exercise of an option contained in the rental or lease agreement; royalties paid, or agreed to be paid, either on a lump sum or other production basis, for use of tangible personal property; and any receipts held by the lessor which may at the time of their receipt or some future time be applied by the lessor as rentals.

...

This regulation means that taxpayer was required to collect sales tax on all consideration it received from its customer for lease of the aircraft. Taxpayer was not collecting sales tax on the consideration it received from its customer when the customer paid for insurance, hangar, fuel, maintenance and crew. This is further evidence that taxpayer’s relationship with its customer was not a valid lessor/lessee relationship.

Next, taxpayer states that it also created the leasing corporation in order to avoid liability in the event of a catastrophic loss. While this may or may not be the case, it is ultimately irrelevant since it does not explain why the rental rate was set at a fraction of the rate charged for comparable aircraft in the area. The fact that the rental rate was so low makes it plain that the rental agreement was set up to avoid sales tax, since the rental rate would have nothing to do with potential liabilities from a crash.

In its protest letter and at hearing, taxpayer complained that it was being victimized by its attempts to comply with Indiana tax laws. Taxpayer states, “The taxpayer voluntarily registered the aircraft with the State of Indiana to further prove that it has no intention to comply with all Indiana regulations. It could have chosen to not register the aircraft and very likely escape paying any sales tax on rental revenue to the Indiana Department of Revenue.” Taxpayer then claims that it contributes to Indiana’s tax base by purchasing aircraft services and aircraft related merchandise in Indiana, and that it has the option of hangaring the aircraft in Illinois. Taxpayer also states, “If the Indiana Department of Revenue continues to be non-business friendly, and prosecute and penalize law abiding taxpayers, ultimately, businesses will relocate out of Indiana and the treasury of the State of Indiana will suffer.”

The Department takes a dim view of threats of tax fraud. The Department hereby informs taxpayer that if it does indeed choose to not register an aircraft in an attempt to “escape paying any sales tax on rental revenue”, it may be subject to a one hundred percent (100%) fraud penalty on such taxes as it is trying to “escape”, as provided by IC 6-8.1-10-4. As for taxpayer’s decision concerning where to hangar the aircraft, that is up to taxpayer. The only thing the Department is concerned with in this instance is whether or not taxpayer qualified for the claimed exemption.

Finally, the Department notes that a lease is defined as “[a] contract by which the rightful possessor of personal property conveys the right to use that property in exchange for consideration.” Black’s Law Dictionary 898 (7th ed. 1999). The parties’

agreement reflected the fact that pilot/lessee never expected to pay consideration sufficient to justify recognizing the agreement as a lease. Instead, the lease agreement falls squarely within the definition of a “sham transaction.” The “sham transaction” doctrine is long established both in state and federal tax jurisprudence dating back to Gregory v. Helvering, 293 U.S. 465 (1935). In that case, the Court held that in order to qualify for a favorable tax treatment, a corporate reorganization must be motivated by the furtherance of a legitimate corporate business purpose. Id at 469. A corporate business activity undertaken merely for the purpose of avoiding taxes was without substance and “[t]o hold otherwise would be to exalt artifice above reality and to deprive the statutory provision in question of all serious purpose.” Id at 470. The courts have subsequently held that “in construing words of a tax statute which describe [any] commercial transactions [the court is] to understand them to refer to transactions entered upon for commercial or industrial purposes and not to include transactions entered upon for no other motive but to escape taxation.” Commissioner v. Transp. Trading and Terminal Corp., 176 F.2d 570, 572 (2nd Cir. 1949), *cert. denied*, 338 U.S. 955 (1950). “[T]ransactions that are invalidated by the [sham transaction] doctrine are those motivated by nothing other than the taxpayer’s desire to secure the attached tax benefit” but are devoid of any economic substance. Horn v. Commissioner of Internal Revenue, 968 f.2d 1229, 1236-7 (D.C. Cir. 1992). The rental/lease rate charged by taxpayer for the aircraft in question here can only be considered a “sham transaction”. The only reason to charge a fraction of the fair market rate for rental/lease of the aircraft and arrange for alternate compensation is to avoid tax. Since taxpayer was not involved in a valid lease or rental agreement with its sole customer the Department was correct to deny taxpayer’s claim for the rental/lease exemption.

In conclusion, taxpayer’s reference to IC 6-6-6.5-9(a)(4) is inapplicable since it deals with aircraft licensing tax rather than sales tax. Taxpayer was not occupationally engaged in renting to others and does not qualify for the exemption found in 45 IAC 2.2-5-15. It is irrelevant if the leasing corporation was formed to shield taxpayer from liability in the event of a crash, since that would have no influence on the rental rate. Taxpayer was not collecting sales tax on the consideration it received from its customer when the customer paid for insurance, hangar, fuel, maintenance and crew, as required by 45 IAC 2.2-4-27(d). Taxpayer’s relationship with its customer was too close and the terms of the rental agreement too generous to establish an arms-length business relationship. The rental/lease arrangement between taxpayer and its customer constitutes a “sham transaction” entered into for the sole purpose of avoiding taxes, as established in Gregory v. Helvering. Without a valid rental/lease agreement, taxpayer is ineligible for the rental exemption on the purchase of the aircraft.

FINDING

Taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

0420040452.LOF

LETTER OF FINDINGS NUMBER: 04-0452

**Sales and Use Tax
For Tax Years 2003**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department’s official position concerning a specific issue.

ISSUE

I. Sales and Use—Aircraft Purchase

Authority: 45 IAC 2.2-5-15

Taxpayer protests the imposition of sales tax on the purchase of an aircraft.

STATEMENT OF FACTS

Taxpayer purchased an aircraft, but did not pay sales tax on the purchase. Taxpayer claimed that the purchase was exempt from sales tax because the aircraft was to be used for rental or leasing to others. The Indiana Department of Revenue (“Department”) conducted an investigation regarding the rental or leasing of the aircraft and determined that there was insufficient evidence to support the claim of rental or leasing as the use of the aircraft. As a result of this investigation, the Department denied the claim for exemption and issued a proposed assessment for use tax on the purchase of the aircraft. Taxpayer protests the assessment. Further facts will be supplied as required.

DISCUSSION

I. Sales and Use—Aircraft Purchase

Taxpayer purchased an aircraft for one hundred ninety four thousand, three hundred and sixty dollars (\$194,630.00) and claimed a sales tax exemption. Taxpayer formed a second corporation using taxpayer’s Taxpayer Identification number and Federal Identification Number to register with the Department. The second corporation then leased the aircraft to a third party which rented

the aircraft, including rentals to the individual who owned both the taxpayer corporation and the related second corporation. The Department also compared a non-related aircraft rental company's rate for the same type of aircraft, to the rate taxpayer was charged for its use of the aircraft. The rental rate was far below the market rate. The Department determined that taxpayer was using the aircraft and denied the exemption. Taxpayer protests the denial.

The exemption is found in 45 IAC 2.2-5-15, which states:

(a) The state gross retail tax shall not apply to sales of any tangible personal property to a purchaser who purchases the same for the purpose of reselling, renting or leasing, in the regular course of the purchaser's business, such tangible personal property in the form in which it is sold to such purchaser.

(b) General rule. Sales of tangible personal property for resale, renting or leasing are exempt from tax if all of the following conditions are satisfied:

(1) The tangible personal property is sold to a purchaser who purchases this property to resell, rent or lease it;

(2) The purchaser is occupationally engaged in reselling, renting or leasing such property in the regular course of his business; and

(3) The property is resold, rented or leased in the same form in which it was purchased

(c) Application of general rule.

(1) The tangible personal property must be sold to a purchaser who makes the purchase with the intention of reselling, renting or leasing the property. This exemption does not apply to purchasers who intend to consume or use the property or add value to the property through the rendition of services or performance of work with respect to such property.

(2) The purchaser must be occupationally engaged in reselling, renting or leasing such property in the regular course of his business. Occasional sales and sales by servicemen in the course of rendering services shall be conclusive evidence that the purchaser is not occupationally engaged in reselling the purchased property in the regular course of his business.

(3) The property must be resold, rented or leased in the same form in which it was purchased.

Taxpayer states that it was in the business of leasing aircraft and therefore qualifies for the exemption provided by 45 IAC 2.2-5-15. 45 IAC 2.2-5-15(c) explains the application of the rule. One condition is 45 IAC 2.2-5-15(c)(1), which states that the exemption does not apply to purchasers who consume or use the property or add value to the property through the rendition of services or performance of work with respect to such property. The Department notes that the individual who signed as lessor on the leasing agreement used the aircraft twenty four times in a roughly ten month period. Combined with the rental rate far below normal market rates, taxpayer does not satisfy 45 IAC 2.2-5-15(c)(1) and does not qualify for the leasing exemption.

In its protest letter, taxpayer states that it has gone to extraordinary efforts to comply with the voluminous documents requested by the Department in the course of its investigation. At no point did the Department receive documentation explaining the how the parties arrived at such a low rental rate, or any documentation which would explain that the rental rate was close to the going market rate. Taxpayer states in its protest that it was proactively trying to comply with the Department's regulations and relied on a Revenue Ruling issued by the Department to a non-related party.

The Department notes that Revenue Rulings apply to the taxpayers to whom they are issued and may not be relied upon even by that taxpayer if the facts provided are not correct or if they change. If a taxpayer relies on a Revenue Ruling but has substantially different fact situation in any material respect, the Revenue Ruling offers no protection. In this case, the Revenue Ruling explained that the taxpayer it was issued to would not use the aircraft for its own use, but would exclusively hold the aircraft for rental to others. As previously explained, the taxpayer in this protest did not exclusively rent to others.

In conclusion, taxpayer was using the aircraft itself, not exclusively renting or leasing to others. Also, taxpayer was paying a rental rate far below the going market rate. Taxpayer does not qualify for the exemption found in 45 IAC 2.2-5-15.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120050043.LOF

LETTER OF FINDINGS: 05-0043
Indiana Adjusted Gross Income Tax
For the Year 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Proposed Assessment – Indiana Individual Income Tax.

Authority: IC 6-8.1-5-1(b).

Taxpayer argues that he is not responsible for paying individual state income tax.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. Taxpayer did not file an Indiana income tax return for 2001. The Department of Revenue (Department) determined that taxpayer had received federal adjusted gross income during 2001. Therefore, the Department sent taxpayer a “Demand Notice for Payment.”

Taxpayer responded with a letter stating that no tax was due. On a form letter provided by the Department, taxpayer checked as his “appropriate response” that there was an “Other reason” for not paying the proposed assessment.

In addition, taxpayer provided numerous “exhibits” purporting to establish that he was not subject to state income tax. Taxpayer concluded that “the Department is using erroneous information supplied to it by the Internal Revenue Service to make tax determinations regarding my case.”

Subsequently, the Department responded to taxpayer’s request under the “Freedom of Information Act” by providing taxpayer a copy of a form entitled “Income Tax Examination Changes” and a copy of the “Agreement on Coordination of Tax Administration.”

Taxpayer’s protest was assigned to the Hearing Officer. The Hearing Officer contacted taxpayer February 15, 2005, offering to schedule either an in-person or telephone hearing during which taxpayer would be provided an opportunity to explain the basis for his protest. Taxpayer responded by requesting information regarding the proposed assessment. A second copy of the information already provided taxpayer was forwarded to taxpayer on February 23, 2005. At the same time, taxpayer was again offered the opportunity to schedule an administrative hearing.

Taxpayer replied in a letter dated March 4, 2005, requesting a “point by point rebuttal of the facts” already provided to the Department. Specifically, taxpayer asked for the Department’s response to his “Determination letter of August of 2004.”

The Hearing Officer responded in a letter dated March 8, 2005, declining to offer a “point by point rebuttal” prior to the hearing. The letter again suggested that the taxpayer schedule a telephone or in-person hearing because “it provides [taxpayer] with an informal opportunity to clarify your objections to the proposed assessment.”

Taxpayer declined the opportunity to schedule the hearing, and a letter was sent to taxpayer March 29, 2005, repeating once again the offer to schedule an informal administrative hearing and provide taxpayer with the opportunity to clarify the basis for his protest. On May 18, 2005, taxpayer’s attorney sent a letter requesting “copies of any documentation you may have that give rise the Department’s inquiry of [taxpayer’s] taxable activity.” This was the first indication that taxpayer had obtained representation on his behalf. On May 25, taxpayer’s attorney was sent “a copy of each item in the [Department’s] file” and repeating the offer to schedule a hearing on the matter. On June 15, the Hearing Officer sent taxpayer’s attorney a letter again offering “to conduct an administrative hearing on this matter.” No response was received. On July 11, the Hearing Officer sent taxpayer’s attorney yet another letter offering to schedule an administrative hearing. No response was received; this Letter of Findings was written based upon the documents originally submitted by taxpayer.

DISCUSSION

I. Proposed Assessment – Indiana Individual Income Tax.

Taxpayer disputes the assessment of 2001 state adjusted gross income tax. Taxpayer has provided a copy of a letter he received from the Department of the Treasury. Taxpayer apparently regards this letter as conclusive of the proposition that he did not owe 2001 federal income tax. Taxpayer errs. The letter simply states that information regarding taxpayer’s 2001 federal tax return is under the jurisdiction of a different IRS office than the office taxpayer originally contacted.

In addition, taxpayer has supplied some 1,000 pages of documents which purport to support taxpayer’s argument that he is not subject to state income tax. The collection of documents begins with a lengthy “Determination Letter” citing to various federal authorities such as IRS Manuals, federal statutes, federal regulations, case law, international law, and the United States Constitution.

The remainder of taxpayer’s lengthy submission consists of copies of various court decisions, U.S. Treasury letters, federal tax forms, federal tax instructions, copies of the 1929 federal tax code, “highlights” of congressional debates, along with hundreds of pages from the Congressional Record. Taxpayer has not provided an explanation as to the relevancy of any of this material.

Taxpayer appears to expect the Department to evaluate the “Determination Letter” and the hundreds of pages of supporting documentation in order to divine the reason taxpayer is not responsible for paying state income tax. The Department must decline taxpayer’s offer.

Indiana tax law provides that, “The notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid.” IC 6-8.1-5-1(b). It is not the Department’s responsibility to piece together a coherent argument on taxpayer’s behalf. “The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.” *Id.* Taxpayer has not met that burden. The sheer volume of taxpayer’s documentation is not equivalent to a reasoned argument supporting taxpayer’s position.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420050123.LOF

LETTER OF FINDINGS NUMBER: 05-0123**Use Tax****For the Periods 2000, 2001, and 2002**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE**I. Use Tax—Electronic Database Subscriptions**

Authority: IC 6-8.1-5-1(b); IC 6-2.5-3-2; IC 6-2.5-3-5; IC 6-2.5-3-4; IC 6-2.5-5; IC 6-2.5-4-1; IC 6-2.5-1-27; IC 6-2.5-1-24; Sales Tax Information Bulletin #8 (May 2002).

Taxpayer protests the assessment of use tax on its electronic database subscriptions.

STATEMENT OF FACTS

Taxpayer is an accounting firm that performs tax preparation and auditing services for its clients. The Department conducted an audit of Taxpayer's business and assessed use tax on its purchases of electronic database subscriptions. Taxpayer filed a protest and a hearing was held.

I. Use Tax—Electronic Database Subscriptions**DISCUSSION**

All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). IC 6-2.5-3-2 imposes an excise tax, commonly known as the use tax, on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction. The one storing, using, or consuming is liable to pay the use tax. IC 6-2.5-3-5 gives credit for sales or use tax previously paid. IC 6-2.5-3-4 and IC 6-2.5-5 list the exemptions to use tax liability.

IC 6-2.5-4-1 defines a retail transaction as the transfer of tangible personal property for consideration. Taxpayer purchased database access subscriptions. Using an internet browser, Taxpayer goes to the website of the electronic content provider, enters its password, and is able to search and find articles, cases, statutes, regulations, and other information. After finding the information sought, Taxpayer can read the content online or can save and print the information. Taxpayer pays for access to the database of information. Sales Tax Information Bulletin #8 (May 2002) states that custom-written software programs are not subject to sales or use tax if the software is specifically designed for the purchaser. The bulletin also states that pre-written programs not specifically designed for one purchaser, developed by the seller for sale or lease on the general market are subject to tax; pre-written or canned computer programs are taxable because the intellectual property contained in the canned program is no different than the intellectual property in a videotape or a textbook.

The online content provider sells access to its database to the general public. The purchaser of the subscription service is granted access to transfer information from the provider's database to the purchaser's computer. The "transfer" element of IC 6-2.5-4-1 is satisfied. Because access is restricted to those who have paid for a subscription and because access is conditioned upon payment of a subscription, the "for consideration" element of IC 6-2.5-4-1 is satisfied. IC 6-2.5-1-27 defines prewritten computer software as tangible personal property. Prewritten computer software is defined in IC 6-2.5-1-24 as computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. Taxpayer doesn't have the database custom written for it; the provider makes the database available to all who pay for that access. All three conditional elements of a retail transaction have been satisfied—the *transfer of tangible personal property for consideration*.

Page 4 of Sales Tax Bulletin #8, states:

F. Sale of Miscellaneous Data:

The sale of statistical reports, graphs, diagrams or any other information produced or compiled by a computer and sold or reproduced for sale in substantially the same form as it is so produced is considered to be the sale of tangible personal property unless the information from which such reports was compiled was furnished by the same person to whom the finished report is sold.

Taxpayer's subscription to access the information on the provider's database meets the situation named above. Taxpayer purchases access to view statistical reports and other information. Taxpayer does not provide the provider with the raw information

to be compiled; Taxpayer pays for the privilege to access compiled information. The provider sold tangible personal property to Taxpayer and Taxpayer purchased access to the tangible personal property.

Taxpayer stated it used to purchase access to the information by means of a subscription to books. The books contained organized information. Taxpayer stated that it paid sales or use tax for these books; Taxpayer agreed the books were to have been taxed because viewable print information was transferred to Taxpayer. With improvements in technology, the books were superseded by CD-ROM disks. Taxpayer agreed that the CD-ROMs were to have been taxed because viewable print information was transferred to it. But when the next technological breakthrough appeared, the searchable, online access subscription, Taxpayer argues that this is not taxable because nothing was transferred to it. Taxpayer is mistaken. Taxpayer still receives viewable print information that is transferred to it. Despite the fact that books do not lose information when you close them because the print remains, and despite the fact that a CD-ROM does not lose the encoded information upon it when ejected from a computer, the fact that the onscreen information is lost when the browser is closed and the computer is turned off does not change the fact that information is transferred to Taxpayer. The question isn't how long a purchaser retains what it has purchased; the question is whether something is transferred to the purchaser. In this case, articles, cases, statutes, regulations, and other information are transferred to Taxpayer when it accesses the provider's database.

FINDING

For the reasons stated above, Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420050176.LOF

LETTER OF FINDINGS NUMBER: 05-0176

Sales and Use Tax

For the Tax Period 2001-2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sales and Use Tax- Imposition of Sales Tax on Docks and Cattle Crossings

Authority: IC 6-8.1-5-1 (b), IC 6-2.5-2-1, 45 IAC 2.2-3-8, 45 IAC 2.2-3-9(b), Sales Tax Information Bulletin #60.

The taxpayer protests the assessment of sales tax on the sale of certain docks and cattle crossings.

II. Tax Administration- Ten Percent (10%) Negligence Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b).

The taxpayer protests the imposition of the ten percent (10%) negligence penalty.

STATEMENT OF FACTS

The taxpayer is a corporation that engages in the sale and rental of tangible personal property. The taxpayer also acts as a contractor in certain situations. After an audit, the Indiana Department of Revenue (department) assessed additional sales and use tax for the tax period 2001-2003. The taxpayer agreed with some of the assessed items and protested the remainder of the assessment. A hearing was held and this Letter of Findings results.

I. Sales and Use Tax-Imposition of Sales Tax on Docks and Cattle Crossings

DISCUSSION

The taxpayer's first protest concerns the imposition of tax on certain docks sold by the taxpayer. The auditor described these docks as follows:

One group of items was of special interest. The taxpayer had fabricated and then sold what were referred to as "docks" to a tenant of "A"[name redacted for confidentiality purposes] that was/is leasing several storage units known as "igloos." These docks allow the tenant to use a forklift for the loading and unloading of materials from their truck to the igloo and are nothing more than a ramp or "dock leveler." The ten foot by ten foot concrete slab immediately outside the door of the igloo is the loading/un-loading dock. The item being sold by the taxpayer merely facilitates their customer's use of forklifts rather than other means of transporting materials to and from their storage units to tractor trailers. It is not permanently affixed to the building or to the concrete loading dock, but is merely staked into the ground to reduce movement if it is bumped by the tractor trailer which is being loaded or unloaded.

The items above are distinctively different from the "portable" docks which the taxpayer leases to tenants of "A". These items are equipped with hitches and wheels to allow for them to be moved to lessees' location with ease.

The taxpayer contends that the items are real property because he was acting as a contractor when he had the docks/ramps built,

the customer was billed a “guaranteed price” and that they would be difficult to relocate. Even so, they do not become real property, but remain tangible personal property and are subject to tax as such.

The taxpayer agreed with the department’s descriptions of the “docks”. However, the taxpayer argued that the items were not personal property as argued by the department. Rather, the taxpayer contended that the docks became part of the real property. Customers requested the building of the subject docks because the concrete docks were a different height than the back of the trucks. The improvements to the concrete docks accommodated the higher loading/unloading height of the trucks.

The taxpayer also protested the assessment of sales tax on its sales of cattle crossings. These are steel grates that cows refuse to walk on. The crossings are attached to the road at a point where the gate on a fence would open.

All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

Indiana imposes a sales tax on the transfers of tangible personal property for consideration by retail merchants in Indiana unless the transfer qualifies for a statutory exemption. The sellers of the property are required to collect the sales tax from the purchasers and remit that tax to the state. IC 6-2.5-2-1. Pursuant to this statute, the department assessed sales tax on the taxpayer’s sales of certain docks and cattle crossings. The taxpayer contended that the department erred in imposing the sales tax on these sales because they were incorporated into and became a permanent part of the real estate.

The application of the sales tax to tangible personal property is discussed at 45 IAC 2.2-3-8 as follows:

(a) In general, all sales of tangible personal property are taxable, and all sales of real property are not taxable. The conversion of tangible personal property into realty does not relieve the taxpayer from a liability for owing and unpaid state gross retail tax or use tax with respect to such tangible personal property.

(b) All construction material purchased by a contractor is taxable either at the time of purchase, or if purchased exempt (or otherwise acquired exempt) upon disposition unless the ultimate recipient could have purchased it exempt.

The Regulations explain the responsibility of a contractor concerning the payment of sales tax on tangible personal property at 45 IAC 2.2-3-9(b) as follows:

A contractor who purchases construction material exempt from the state gross retail tax or otherwise acquires construction material “tax-free”, is accountable to the Department of Revenue for the state gross retail tax when he disposes of such property.

For the purposes of the imposition of sales tax on tangible personal property, an improvement to real estate is defined in Sales Tax Information Bulletin #60 as follow:

E. ‘Improvements to real estate’ means that personal property has been incorporated into and becomes a permanent part of the real property. To accomplish this, the personal property generally takes on an immovable character. An immovable fixture is characterized by three elements:

- (1) Real or constructive annexation of the article in question to the land.
- (2) Adaptation of the personal property as part of the land.
- (3) The intention of the party making the annexation to make the personal property a permanent part of the land so that it would pass with the land upon a sale.

Examples of installations that constitute improvements to realty are: doors, garage doors, garage door openers, windows, cabinets, garbage disposals, water heaters, water softeners, alarms, furnaces, central air conditioning units, gutters, and carpeting.

Examples of installations that do not constitute improvements to realty are: personal computers, home stereos, televisions, refrigerators, stoves, dishwashers, garbage compactors, washers, dryers, and window air conditioning units.

The taxpayer provided substantial documentation that the tangible personal property was incorporated into realty pursuant to a construction contract. The property became a permanent and an immovable part of the real estate. It would pass with the real property on sale.

The taxpayer acted as a contractor in the attachment of the protested docks and cattle crossings to the customers’ real estate. The taxpayer acquired the tangible personal property without paying tax on the purchase. Also, the taxpayer did not charge sales tax on the tangible personal property sold to its customers. Therefore, pursuant to the provisions of 45 IAC 2.2-3-9(b), the taxpayer is accountable to the department for the sales tax on tangible personal property it incorporated into its customers’ real estate.

FINDING

The taxpayer’s protest is denied.

II. Tax Administration- Ten Percent (10%) Negligence Penalty

DISCUSSION

The taxpayer protests the imposition of the ten percent (10%) negligence penalty pursuant to IC 6-8.1-10-2.1. Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer’s carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws,

rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer disregarded the law and department instructions to pay sales or use tax on clearly taxable items such as copiers, cleaning supplies, mulch and a tractor mower. These breaches of the taxpayer's duty constitute negligence.

FINDING

The taxpayer's protest to the imposition of the ten per cent penalty is denied.

DEPARTMENT OF STATE REVENUE

0420050177.LOF

LETTER OF FINDINGS: 05-0177

Use Tax

For the Years 2001 through 2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Advertising Materials – Use Tax.

Authority: IC 6-2.5-3-1; IC 6-2.5-3-2; IC 6-2.5-3-5(a); 45 IAC 2.2-3-16; Ky. Rev. Stat. Ann. § 139.310.

Taxpayer challenges the audit's decision imposing Indiana use tax on the cost of various advertising materials purchased by taxpayer for use within Indiana.

STATEMENT OF FACTS

Taxpayer is an Indiana corporation organized to operate a franchise restaurant located in Indiana. Taxpayer is co-owned by an Indiana resident and by a Kentucky resident. The Department of Revenue (Department) conducted an audit review of taxpayer's business records. The audit review resulted in the assessment of additional Indiana use tax. Taxpayer disagreed with the assessment and lodged a protest to that effect. Declining the opportunity to take part in an administrative hearing on the matter, taxpayer agreed to permit resolution of the protest based upon the contents of its written submission to the Department. This Letter of Findings results.

DISCUSSION

I. Advertising Materials – Use Tax.

The Department's audit concluded that taxpayer owed use tax on the price of advertising materials destined for use within Indiana. Taxpayer disagrees.

The restaurant franchisor prepared advertising materials suitable for use by its individual franchisees. Taxpayer – as one of the individual franchisees – took advantage of these materials using them to promote taxpayer's Indiana restaurant business.

In taxpayer's case, the franchisor's support service ships the materials to a Kentucky mail service. According to taxpayer, "The title of these inserts is assumed by [taxpayer] or its designee in Kentucky. The mailer then adds the coupons/flyers to its other inserts and mails them to various locations in the state of Indiana." Taxpayer thereafter pays franchisor for the cost of the advertising materials. The audit based the use tax assessment on the cost of the advertising materials delivered into Indiana.

Taxpayer points out that it remitted Kentucky sales tax each time it paid an invoice for the advertising materials. Taxpayer contends that the proposed assessment of Indiana use tax "would result in double taxation at the Indiana franchisee level and would appear to violate the fundamental constitutional principals against double taxation."

Indiana imposes a use tax on the "storage, use, or consumption of tangible personal property in Indiana... regardless of the location of that transaction or of the retail merchant making that transaction." IC 6-2.5-3-2. The tax is imposed on transactions that occur outside of Indiana that would be taxable if they occurred within Indiana but only if property is stored, used or consumed in Indiana. IC 6-2.5-3-1. However, IC 6-2.5-3-5(a) provides:

A person is entitled to a credit against the use tax imposed on the use, storage, or consumption of a particular item of tangible personal property equal to the amount, if any, of sales tax, purchase tax, or use tax paid to another state, territory, or possession of the United States for the acquisition of that property.

The imposition of the use tax, on purchases occurring outside the state, is qualified under IC 6-2.5-3-5(a). The Department's regulation, 45 IAC 2.2-3-16, reiterates the principal stating that a credit shall be given for "the amount of any sale, purchase, or use tax paid to any other state... with respect to the tangible personal property on which Indiana use tax applies."

Taxpayer has provided approximately 25 original invoices indicating that that taxpayer paid Kentucky sales tax on the purchase of advertising materials which were sent into and used in Indiana. It is taxpayer's contention that it is entitled to a credit against the

Nonrule Policy Documents

Indiana use tax assessment; taxpayer errs.

It is the Department's conclusion that the IC 6-2.5-3-5(a) use tax credit is not available when the corresponding out-of-state sales tax was imposed in error. Ky. Rev. Stat. Ann. § 139.310 states that the Kentucky use tax "is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased... for storage, use, or other consumption *in this state....*" (*Emphasis added*). The Indiana use tax law states that the Indiana use tax is imposed on the "storage, use, or consumption of tangible personal property *in Indiana....*" IC 6-2.5-3-2. (*Emphasis added*). Although the advertising materials were prepared in and sent from Kentucky, the materials were *used* in Indiana. The Kentucky use tax is inapplicable while the audit's assessment of Indiana use tax was entirely appropriate.

Taxpayer's double taxation fears are not entirely unwarranted. However, the solution is not to gloss over the undisputed fact that the advertising materials were used in Indiana, but for taxpayer to seek a refund of the taxes paid to Kentucky in error.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0420050239P.LOF

LETTER OF FINDINGS NUMBER: 050239P

Sales and Use Tax

For the Years 2002-2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Tax Administration- Ten Percent (10%) Negligence Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b).

The taxpayer protests the imposition of the ten percent (10%) negligence penalty.

STATEMENT OF FACTS

The taxpayer operates video games, pinball machines, pool tables and dart machines in more than 250 locations. They also recondition, sell and service older machines for home entertainment. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional sales and use tax, interest, and penalty. The taxpayer protested the imposition of the ten percent (10%) negligence penalty. The taxpayer requested that the Letter of Findings be based on the information in the file.

I. Tax Administration- Ten Percent (10%) Negligence Penalty

DISCUSSION

The taxpayer protests the imposition of the ten percent (10%) negligence penalty pursuant to IC 6-8.1-10-2.1. Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer computed its monthly sales tax liability by taking its gross sales, backing the tax out and reporting net sales on the ST-103. The law and all published departmental instructions indicate that the merchant is to compute the sales tax due by multiplying the gross retail income by the percentage of sales tax due. The retail merchant is not allowed to absorb the customer's sales tax on a sale. Further, in clear contradiction of the law and published departmental instructions, the taxpayer failed to collect sales tax on parts sold during service calls. The taxpayer's failure to read and follow the published departmental instructions constitutes negligence.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420050241.LOF

LETTER OF FINDINGS NUMBER: 05-0241

**Sales and Use Tax
For 2004**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales and Use Tax—Renting and Leasing

Authority: IC 6-8.1-5-1(b); IC 6-2.5-2-1; IC 6-2.5-4-1; IC 6-2.5-5-8(b); IC 6-2.5-8-8; IC 6-2.5-4-10(b); Department of Revenue v. Interstate Warehousing, 783 N.E.2d 248 (Ind. 2003).

Taxpayer protests the assessment of sales and use tax due on the purchase of an aircraft Taxpayer asserts was rented and leased.

STATEMENT OF FACTS

Taxpayer is a single member LLC that purchased an aircraft with the intentions of renting and leasing to a flight school. The Department sought documentation to substantiate the rental and leasing exemption. The documentation did not adequately substantiate that Taxpayer was renting and leasing, so Taxpayer was assessed use tax due on the purchase of the aircraft. Taxpayer filed a protest and a hearing was held.

I. Sales and Use Tax—Renting and Leasing

DISCUSSION

All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). Taxpayer purchased a new aircraft from an Indiana dealer and when Taxpayer submitted Form 7695 to the Department to register the aircraft, Taxpayer claimed a sales and use tax exemption for rental or lease to others. As required on Form 7695, Taxpayer entered its Retail Merchants Number in the exemption section.

IC 6-2.5-2-1 imposes sales tax on retail transactions made in Indiana and a retail merchant is required to collect the tax as agent for the state. IC 6-2.5-4-1 defines a retail transaction as the acquisition of tangible personal property for resale to a customer for consideration. When tangible personal property is transferred to a customer, sales tax is to be calculated and collected. Sales of aircraft in Indiana are subject to the imposition of sales tax. Exemptions to the imposition of sales tax exist. IC 6-2.5-5-8(b) grants a sales tax exemption for tangible personal property acquired for resale, rental, or leasing in the course of business. Taxpayer purchased the aircraft and claimed the exemption when registering the aircraft with the Department. Because IC 6-2.5-2-1 requires a merchant to impose and collect sales tax when a sale is made, Taxpayer would have given the dealer a Tax Exemption Certificate, as required by IC 6-2.5-8-8. Under the statute, only retail merchants, wholesalers, manufacturers, and others registered with the Department may issue an exemption certificate and not have sales tax imposed and collected by the seller. Taxpayer was a registered retail merchant with the Department when it claimed the exemption.

Taxpayer entered into a non-exclusive rental and lease contract with a flight school. The flight school intended to rent the aircraft to students for flying lessons toward pilot certification. IC 6-2.5-4-10(b) defines renting and leasing as a retail transaction upon which sales tax is to be collected on the consideration paid. Taxpayer was to have collected sales tax from the flight school on all consideration paid to Taxpayer, both monetary consideration and exchanges and credits. Taxpayer did not collect sales tax from the flight school—as required by IC 6-2.5-2-1. Taxpayer asserted at the hearing that the contract with the flight school was written to acknowledge that the flight school intended to resell use of the aircraft to students. Taxpayer asserted that the flight school was entitled to the sales tax exemption for resale/renting and leasing. The Department asked Taxpayer for a copy of the sales tax exemption certificate submitted by the flight school, as required by IC 6-2.5-8-8. Taxpayer stated that the flight school had not given Taxpayer an exemption certificate. For the record, the flight school was not registered with the Department and was not legally able to have given Taxpayer a sales tax exemption certificate.

A review of reconciliation log provided to Taxpayer by the flight school of rental transactions indicated that the sole member of Taxpayer LLC used the aircraft along with others. No sales tax or use tax was submitted to the Department for the member's use of the aircraft. Taxpayer stated at the hearing that the aircraft was used in an effort to solicit additional business for renting and leasing. Nonetheless, use of the aircraft by the Taxpayer required that use tax have been paid by Taxpayer. Taxpayer has merged its personal use of the aircraft with the rental and leasing use of the aircraft.

The Indiana Supreme Court has held that exemption statutes are strictly construed against a taxpayer; a taxpayer has the burden of establishing its entitlement to an exemption. Department of Revenue v. Interstate Warehousing, 783 N.E.2d 248, 250 (Ind. 2003). Taxpayer has not substantiated a qualified exempt use.

FINDING

For the reasons stated above, Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

Revenue Ruling #2005-12ST

September 23, 2005

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales and Use Tax- Application of Sales Tax to Dental Restorations

Authority: IC 6-2.5-4-9, 45 IAC 2.2-4-22 (d), (e).

The taxpayer requests that the department rule on how the sales tax applies to a variety of fixed and removable dental restorations.

STATEMENT OF FACTS

The taxpayer is a group of dental laboratories. They sell a variety of fixed and removable dental restorations including crowns, bridges, cosmetic restorations, partial dentures, full dentures, implants, orthodontics, snoring and sleep apnea appliances and TMJ appliances. They also repair removable prosthetics and splints. In every case the taxpayers' sales are made to dentists. The specific product lines are as follows:

1. Removable appliances

Commonly known as dentures, this product line encompasses full and partial appliances manufactured to a specific prescription issued by a practicing dentist. Partial dentures replace one or more natural teeth. Full dentures replace all upper teeth, all lower teeth or all teeth. The most pervasive characteristic of this product line is that they are removable prosthetics.

2. Splints

An occlusal splint is an appliance, usually of all acrylic construction but may incorporate metal clasps and screws. Splints are used for many purposes. These appliances are not prosthetics, however as with removable appliances, they are manufactured to a specific prescription issued by a practicing dentist. Examples: (1) Temporomandibular joint disorder treatment; (2) Bruxism (grinding wear of natural teeth); and (3) For protection of expensive porcelain restorations (crowns and bridges).

DISCUSSION

Indiana imposes a gross retail or sales tax on retail sales in Indiana. IC 6-2.5-2-1. A retail sale is a transfer of tangible personal property for consideration. IC 6-2.5-4-1(b)(2). Wholesale sales are specifically defined as retail sales subject to the sales tax. IC 6-2.5-4-2(b)(1). Except for certain enumerated services, the provision of services is not subject to the Indiana sales tax.

Certain items of medical equipment are exempted pursuant to IC 6-2.5-5-18(a) as follows:

Sales of durable medical equipment, prosthetic devices, artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, contact lenses, and other medical supplies and devices are exempt from the state gross retail tax, if the sales are prescribed by a person licensed to issue the prescription.

The term "prosthetic device" is defined at IC 6-2.5-1-25 as follows:

"Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:

- (1) artificially replace a missing part of the body;
- (2) prevent or correct physical deformity or malfunction; or
- (3) support a weak or deformed part of the body.

The statute sets out a two pronged test for a sale to qualify for exemption from the Indiana sales and use tax. First, the item must be one of the listed items. Secondly, the item must be prescribed by a person licensed to issue the prescription.

The dentures produced by the taxpayer qualify as a dental prosthetic device because they artificially replace the patient's missing teeth. The splints made by the taxpayer fit the statutory definition of a dental prosthetic device because they are used to prevent or correct physical deformities or malfunctions or support a weak or deformed part of the mouth. The repairs to the dentures and appliances produced by the taxpayer qualify as prosthetic devices because they are repairs and replacement parts for the dental prosthetic devices produced by the taxpayer.

All of the dental prosthetic devices, including the repairs and replacement parts, are prescribed by a dentist licensed to prescribe such items and repairs.

Since the taxpayer's products are dental prosthetic devices that are prescribed by a dentist, they meet the requirements to qualify for exemption from the Indiana sales and use tax pursuant to IC 6-2.5-5-18(a).

RULING

The Department rules that the taxpayer's sales of dentures, splints and repairs to and replacement parts for the dentures and splints are not subject to the Indiana sales and use tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

Rules Affected by Volumes 28 and 29

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION				65 IAC 4-287	R	04-249	*ER (28 IR 227)		
25 IAC 5-3-2	A	05-25	28 IR 2761	29 IR 450	65 IAC 4-317	R	04-249	*ER (28 IR 227)	
25 IAC 5-3-5	A	05-25	28 IR 2762	29 IR 451	65 IAC 4-319	R	04-249	*ER (28 IR 227)	
25 IAC 5-3-6	A	05-25	28 IR 2764	29 IR 453	65 IAC 4-321	R	04-249	*ER (28 IR 227)	
25 IAC 5-4-1	A	05-25	28 IR 2765	29 IR 454	65 IAC 4-332	R	04-249	*ER (28 IR 227)	
25 IAC 5-4-2	A	05-25	28 IR 2766	29 IR 455	65 IAC 4-343	R	04-249	*ER (28 IR 227)	
25 IAC 5-6-2	A	05-25	28 IR 2766	29 IR 455	65 IAC 4-348	N	04-241	*ER (28 IR 221)	
25 IAC 6	N	04-172	27 IR 3595	*CPH (28 IR 234)	65 IAC 4-349	N	04-283	*ER (28 IR 975)	
	N	05-123	28 IR 3328		65 IAC 4-350	N	04-252	*ER (28 IR 229)	
					65 IAC 4-352	N	04-284	*ER (28 IR 978)	
TITLE 28 STATE INFORMATION TECHNOLOGY OVERSIGHT COMMISSION				65 IAC 4-353	N	04-329	*ER (28 IR 1492)		
28 IAC	N	04-123	28 IR 986	*CPH (28 IR 1498)	65 IAC 4-354	R	04-249	*ER (28 IR 227)	
					65 IAC 4-355	N	05-32	*ER (28 IR 2147)	
					65 IAC 4-356	N	05-87	*ER (28 IR 2734)	
TITLE 31 STATE PERSONNEL DEPARTMENT				65 IAC 4-359	R	04-249	*ER (28 IR 227)		
31 IAC 1-9-4	A	04-170	27 IR 4049	65 IAC 4-367	R	04-249	*ER (28 IR 227)		
31 IAC 2-11-4	A	04-170	27 IR 4049	65 IAC 4-383	R	04-249	*ER (28 IR 227)		
				65 IAC 4-390	R	04-249	*ER (28 IR 227)		
TITLE 40 STATE ETHICS COMMISSION				65 IAC 4-401	R	04-249	*ER (28 IR 227)		
40 IAC 2-1-5.5	N	04-198	28 IR 987	*AROC (28 IR 3354)	65 IAC 4-402	R	04-249	*ER (28 IR 227)	
			28 IR 2160	28 IR 3452	65 IAC 4-403	R	04-249	*ER (28 IR 227)	
40 IAC 2-1-6	A	04-198	28 IR 987	*AROC (28 IR 3354)	65 IAC 4-404	R	04-249	*ER (28 IR 227)	
			28 IR 2160	28 IR 3452	65 IAC 4-405	R	04-249	*ER (28 IR 227)	
40 IAC 2-1-7	A	04-198	28 IR 988	*AROC (28 IR 3354)	65 IAC 4-406	R	04-249	*ER (28 IR 227)	
			28 IR 2161	28 IR 3453	65 IAC 4-408	R	04-249	*ER (28 IR 227)	
					65 IAC 4-437	R	04-249	*ER (28 IR 227)	
TITLE 42 OFFICE OF THE INSPECTOR GENERAL				65 IAC 4-439	R	04-249	*ER (28 IR 227)		
42 IAC	N	05-124	28 IR 3615	65 IAC 4-440	R	04-249	*ER (28 IR 227)		
				65 IAC 4-441	R	04-249	*ER (28 IR 227)		
TITLE 45 DEPARTMENT OF STATE REVENUE				65 IAC 4-442	R	04-249	*ER (28 IR 227)		
45 IAC 1.3	N	04-125	27 IR 3101	65 IAC 4-443	R	04-249	*ER (28 IR 227)		
45 IAC 18	R	04-292	28 IR 1518	65 IAC 4-445	R	04-249	*ER (28 IR 227)		
45 IAC 18-3-7	R	04-255	28 IR 624	*AWR (28 IR 971)	65 IAC 4-446	R	04-249	*ER (28 IR 227)	
45 IAC 18-3-7.1	N	04-255	28 IR 623	*AWR (28 IR 971)	65 IAC 4-447	R	04-249	*ER (28 IR 227)	
45 IAC 18-3-8	R	04-255	28 IR 624	*AWR (28 IR 971)	65 IAC 4-448	R	04-249	*ER (28 IR 227)	
45 IAC 18-3-8.1	N	04-255	28 IR 623	*AWR (28 IR 971)	65 IAC 4-450	R	04-249	*ER (28 IR 227)	
45 IAC 20	N	04-292	28 IR 1500	65 IAC 4-453	R	04-249	*ER (28 IR 227)		
				65 IAC 5-2-6	A	05-36	*ER (28 IR 2153)		
TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE				65 IAC 5-12-2	A	05-245	*ER (29 IR 41)		
50 IAC 13	R	05-253	29 IR 584	65 IAC 5-12-3	A	05-245	*ER (29 IR 42)		
50 IAC 20	N	04-174	27 IR 3603	*AROC (27 IR 3707)	65 IAC 5-12-4	A	05-245	*ER (29 IR 42)	
				28 IR 1458	65 IAC 5-12-5	A	05-245	*ER (29 IR 43)	
				28 IR 1452	65 IAC 5-12-6	A	05-245	*ER (29 IR 43)	
50 IAC 21	N	02-297	27 IR 4050	65 IAC 5-12-9	A	05-245	*ER (29 IR 44)		
50 IAC 21-1-3	N	05-142	28 IR 3622	65 IAC 5-12-10	A	05-245	*ER (29 IR 45)		
50 IAC 21-2-1.5	N	05-142	28 IR 3622	65 IAC 5-12-11	A	05-245	*ER (29 IR 45)		
50 IAC 21-2-2	A	05-142	28 IR 3622	65 IAC 5-12-11.5	A	05-245	*ER (29 IR 46)		
50 IAC 21-2-2.5	N	05-142	28 IR 3622	65 IAC 5-12-12	A	05-245	*ER (29 IR 46)		
50 IAC 21-2-3	A	05-142	28 IR 3622	65 IAC 5-12-12.5	A	05-245	*ER (29 IR 47)		
50 IAC 21-3-3	A	05-142	28 IR 3623	65 IAC 5-13	R	04-249	*ER (28 IR 227)		
50 IAC 21-4-1	A	05-142	28 IR 3623	65 IAC 5-14	R	04-249	*ER (28 IR 227)		
50 IAC 21-4-2	A	05-142	28 IR 3624	65 IAC 5-15	R	04-249	*ER (28 IR 227)		
50 IAC 21-4-3	R	05-142	28 IR 3626	65 IAC 5-16	N	05-28	*ER (28 IR 2142)		
50 IAC 21-5-2	A	05-142	28 IR 3624	65 IAC 5-16-4	A	05-247	*ER (29 IR 49)		
50 IAC 21-6-1	A	05-142	28 IR 3625	65 IAC 5-16-5	A	05-247	*ER (29 IR 49)		
50 IAC 21-7-1	A	05-142	28 IR 3625	65 IAC 5-16-6	A	05-247	*ER (29 IR 49)		
50 IAC 21-8-1	A	05-142	28 IR 3625	65 IAC 5-16-7	A	05-247	*ER (29 IR 49)		
50 IAC 21-9-1	A	05-142	28 IR 3625	65 IAC 5-16-8	A	05-247	*ER (29 IR 49)		
50 IAC 21-10-1	A	05-142	28 IR 3626	65 IAC 5-17	N	05-83	*ER (28 IR 2731)		
50 IAC 21-11-1	A	05-142	28 IR 3626	65 IAC 5-18	N	05-88	*ER (28 IR 2738)		
50 IAC 22	N	05-144	29 IR 579	65 IAC 5-18-5	A	05-136	*ER (28 IR 2993)		
				65 IAC 5-19	N	05-159	*ER (28 IR 3313)		
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TITLE 65 STATE LOTTERY COMMISSION					TITLE 68 INDIANA GAMING COMMISSION				
65 IAC 1-4-5.5	A	04-237		*ER (28 IR 217)	68 IAC 1-5-1	A	04-103	27 IR 3115	28 IR 532
65 IAC 4-2-6	A	05-36		*ER (28 IR 2153)	68 IAC 2-3-5	A	04-103	27 IR 3115	28 IR 533
65 IAC 4-90	R	04-249		*ER (28 IR 227)	68 IAC 2-3-6	A	04-103	27 IR 3117	28 IR 535
65 IAC 4-99	R	04-249		*ER (28 IR 227)	68 IAC 2-3-9	A	04-103	27 IR 3118	28 IR 535
65 IAC 4-205	R	04-249		*ER (28 IR 227)					
65 IAC 4-248	R	04-249		*ER (28 IR 227)					
65 IAC 4-272	R	04-249		*ER (28 IR 227)					

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68 IAC 2-6-49	A	04-102	27 IR 3109	28 IR 526	135 IAC 2-5-3	A	05-257	29 IR 607	
68 IAC 2-7-12	A	04-102	27 IR 3109	28 IR 526	135 IAC 2-5-5	A	05-257	29 IR 607	
68 IAC 5-3-2	A	04-102	27 IR 3109	28 IR 526	135 IAC 2-7-1	A	05-257	29 IR 608	
68 IAC 5-3-7	A	04-102	27 IR 3109	28 IR 527	135 IAC 2-7-2	A	05-257	29 IR 608	
68 IAC 8-1-11	A	04-102	27 IR 3110	28 IR 527	135 IAC 2-7-3	A	05-257	29 IR 608	
68 IAC 8-2-29	A	04-102	27 IR 3110	28 IR 527	135 IAC 2-7-5	A	05-257	29 IR 608	
68 IAC 9-4-8	A	04-102	27 IR 3110	28 IR 527	135 IAC 2-7-6	A	05-257	29 IR 609	
68 IAC 10-1-5	A	04-102	27 IR 3110	28 IR 527	135 IAC 2-7-7	A	05-257	29 IR 609	
68 IAC 11-1-8	A	04-102	27 IR 3110	28 IR 528	135 IAC 2-7-8	A	05-257	29 IR 609	
68 IAC 11-3-1	A	04-102	27 IR 3110	28 IR 528	135 IAC 2-7-11	A	05-257	29 IR 609	
68 IAC 12-1-15	A	04-102	27 IR 3111	28 IR 529	135 IAC 2-7-12	A	05-257	29 IR 609	
68 IAC 14-4-8	A	04-102	27 IR 3112	28 IR 529	135 IAC 2-7-13	A	05-257	29 IR 610	
68 IAC 14-5-6	A	04-102	27 IR 3112	28 IR 529	135 IAC 2-7-14	A	05-257	29 IR 610	
68 IAC 15-1-8	A	04-102	27 IR 3112	28 IR 530	135 IAC 2-7-15	A	05-257	29 IR 610	
68 IAC 15-3-3	A	04-179	28 IR 237	28 IR 2014	135 IAC 2-7-16	A	05-257	29 IR 610	
68 IAC 15-5-1.5	N	05-107	28 IR 3627	*CPH (29 IR 51)	135 IAC 2-7-17	A	05-257	29 IR 610	
68 IAC 15-5-2	A	04-179	28 IR 237	28 IR 2014	135 IAC 2-7-18	A	05-257	29 IR 610	
68 IAC 15-6-2	A	04-179	28 IR 238	28 IR 2015	135 IAC 2-7-19	A	05-257	29 IR 611	
68 IAC 15-6-3	A	04-179	28 IR 239	28 IR 2016	135 IAC 2-7-20	A	05-257	29 IR 611	
68 IAC 15-6-5	A	04-179	28 IR 240	28 IR 2016	135 IAC 2-7-21	A	05-257	29 IR 611	
68 IAC 15-9-4	A	04-102	27 IR 3112	28 IR 530	135 IAC 2-7-22	A	05-257	29 IR 612	
68 IAC 15-10-4.1	A	04-102	27 IR 3113	28 IR 530	135 IAC 2-7-23	A	05-257	29 IR 612	
68 IAC 15-13-2.5	N	04-102	27 IR 3113	28 IR 531	135 IAC 2-7-24	A	05-257	29 IR 612	
68 IAC 16-1-16	A	04-102	27 IR 3113	28 IR 531	135 IAC 2-8-1	A	05-257	29 IR 612	
68 IAC 17-1-5	A	04-102	27 IR 3114	28 IR 531	135 IAC 2-8-3	A	05-257	29 IR 612	
68 IAC 17-2-6	A	04-102	27 IR 3114	28 IR 531	135 IAC 2-8-5	A	05-257	29 IR 613	
68 IAC 18-1-2	A	04-102	27 IR 3114	28 IR 531	135 IAC 2-8-7	A	05-257	29 IR 613	
68 IAC 18-1-6	A	04-102	27 IR 3114	28 IR 532	135 IAC 2-8-11	A	05-257	29 IR 613	
					135 IAC 2-10-1	R	05-257	29 IR 614	
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TITLE 71 INDIANA HORSE RACING COMMISSION									
71 IAC 3-2-9	A	05-115		*ER (28 IR 2745)					
71 IAC 3-3-11	A	05-115		*ER (28 IR 2746)					
71 IAC 3-4-1	A	05-115		*ER (28 IR 2746)					
71 IAC 3-7-3	R	05-115		*ER (28 IR 2751)					
71 IAC 3-11-1	A	05-115		*ER (28 IR 2746)					
71 IAC 5-3-1	A	05-115		*ER (28 IR 2746)					
71 IAC 6-1-3	A	05-115		*ER (28 IR 2747)					
71 IAC 6-1-4	N	05-115		*ER (28 IR 2748)					
71 IAC 7-1-29	A	05-115		*ER (28 IR 2748)					
71 IAC 7-3-7	A	05-115		*ER (28 IR 2749)					
71 IAC 7-3-13	A	05-115		*ER (28 IR 2750)					
71 IAC 7-3-18	A	05-115		*ER (28 IR 2750)					
71 IAC 7-3-29	A	05-115		*ER (28 IR 2751)					
71 IAC 7-3-36	N	05-115		*ER (28 IR 2751)					
71 IAC 7-5-1	A	05-115		*ER (28 IR 2751)					
71 IAC 7-5-2	A	05-115		*ER (28 IR 2751)					
71 IAC 7.5-6-3	A	05-27		*ER (28 IR 2154)					
71 IAC 8.5-13	N	05-221		*ER (28 IR 3599)					
71 IAC 13.5-3-3	A	05-115		*ER (28 IR 2751)					
TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION									
105 IAC 13	N	05-161	29 IR 59						
105 IAC 14	N	05-258	29 IR 588						
TITLE 135 INDIANA FINANCE AUTHORITY									
135 IAC 2-1-1	A	05-257	29 IR 598						
135 IAC 2-2-1	A	05-257	29 IR 600						
135 IAC 2-2-3	A	05-257	29 IR 601						
135 IAC 2-2-5	A	05-257	29 IR 601						
135 IAC 2-2-10	A	05-257	29 IR 601						
135 IAC 2-2-12	A	05-257	29 IR 601						
135 IAC 2-3-1	A	05-257	29 IR 602						
135 IAC 2-3-2	A	05-257	29 IR 602						
135 IAC 2-4-1	A	05-257	29 IR 602						
135 IAC 2-4-2	A	05-257	29 IR 602						
135 IAC 2-4-4	A	05-257	29 IR 603						
135 IAC 2-5-1	A	05-257	29 IR 603						
135 IAC 2-5-2	R	05-257	29 IR 614						
135 IAC 2-5-2.1	N	05-257	29 IR 603						
TITLE 140 BUREAU OF MOTOR VEHICLES									
140 IAC 4-4	RA	04-162	28 IR 323						28 IR 1315
140 IAC 7-4	N	05-237	29 IR 64						
140 IAC 8-4	RA	04-162	28 IR 323						28 IR 1315
TITLE 170 INDIANA UTILITY REGULATORY COMMISSION									
170 IAC 1-4	RA	04-163	27 IR 4140	*CPH (28 IR 620)					28 IR 1315
170 IAC 1-5	RA	04-163	27 IR 4140	*CPH (28 IR 620)					28 IR 1315
170 IAC 4-1-15	R	04-144	27 IR 4095	*CPH (28 IR 620)					
170 IAC 4-1-16	R	04-144	27 IR 4095	*AWR (28 IR 2730)					
170 IAC 4-1-16.5	R	04-144	27 IR 4095	*CPH (28 IR 620)					
170 IAC 4-1-16.6	R	04-144	27 IR 4095	*AWR (28 IR 2730)					
170 IAC 4-1-17	R	04-144	27 IR 4095	*CPH (28 IR 620)					
170 IAC 4-1-23	A	04-68	27 IR 2765	*AWR (28 IR 2730)					28 IR 789
170 IAC 4-1.2	N	04-144	27 IR 4057	*CPH (28 IR 620)					
170 IAC 4-4.1-7	A	05-130	28 IR 3331	*AWR (28 IR 2730)					
170 IAC 4-4.2	N	03-305	27 IR 2312						28 IR 786
170 IAC 4-4.2-5	A	05-130	28 IR 3332						
170 IAC 4-4.3	N	05-130	28 IR 3333						
170 IAC 5-1-15	R	04-144	27 IR 4095	*CPH (28 IR 620)					
170 IAC 5-1-16	R	04-144	27 IR 4095	*AWR (28 IR 2730)					
170 IAC 5-1-16.5	R	04-144	27 IR 4095	*CPH (28 IR 620)					
170 IAC 5-1-16.6	R	04-144	27 IR 4095	*AWR (28 IR 2730)					
170 IAC 5-1-17	R	04-144	27 IR 4095	*CPH (28 IR 620)					

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312 IAC 9-7-6	A	03-311	27 IR 1959	28 IR 549	315 IAC 1-3-2	A	04-70	28 IR 991	*CPH (28 IR 1498)
312 IAC 9-7-13	A	03-311	27 IR 1960	28 IR 550					*SPE
312 IAC 9-10-5	A	05-214	29 IR 626			A	05-73	28 IR 2774	29 IR 470
312 IAC 9-10-9	A	03-311	27 IR 1960	28 IR 550	315 IAC 1-3-2.1	N	04-70	28 IR 992	*CPH (28 IR 1498)
312 IAC 9-10-9.5	N	03-311	27 IR 1961	28 IR 551					*SPE
312 IAC 9-10-10	A	03-311	27 IR 1962	28 IR 552		N	05-73	28 IR 2775	29 IR 471
312 IAC 9-10-11	A	05-214	29 IR 626		315 IAC 1-3-3	A	04-70	28 IR 992	*CPH (28 IR 1498)
312 IAC 9-10-12	A	05-214	29 IR 628						*SPE
312 IAC 9-10-13.5	N	03-311	27 IR 1963	28 IR 553		A	05-73	28 IR 2775	29 IR 471
312 IAC 9-10-17	A	03-311	27 IR 1964	28 IR 554	315 IAC 1-3-4	A	04-70	28 IR 993	*CPH (28 IR 1498)
312 IAC 9-11-1	A	03-311	27 IR 1964	28 IR 554					*SPE
312 IAC 9-11-2	A	03-311	27 IR 1965	28 IR 555		A	05-73	28 IR 2776	29 IR 472
312 IAC 9-11-13	A	05-214	29 IR 628		315 IAC 1-3-5	A	04-70	28 IR 994	*CPH (28 IR 1498)
312 IAC 9-11-14	A	03-311	27 IR 1965	28 IR 555					*SPE
312 IAC 11	RA	05-1	28 IR 2203	28 IR 3661	315 IAC 1-3-7	A	05-73	28 IR 2776	29 IR 473
312 IAC 11-2-2	A	05-38	28 IR 2767	29 IR 464		A	04-70	28 IR 994	*CPH (28 IR 1498)
312 IAC 11-2-5	A	04-157	28 IR 1521	28 IR 2660					*SPE
312 IAC 11-2-7	A	05-38	28 IR 2767	29 IR 464	315 IAC 1-3-8	A	05-73	28 IR 2777	29 IR 473
312 IAC 11-2-11	A	05-38	28 IR 2768	29 IR 464		A	04-70	28 IR 994	*CPH (28 IR 1498)
312 IAC 11-2-11.5	N	04-94	27 IR 4095	28 IR 1681					*SPE
312 IAC 11-2-11.8	N	05-38	28 IR 2768	29 IR 464	315 IAC 1-3-9	A	05-73	28 IR 2777	29 IR 474
312 IAC 11-2-14.5	N	05-38	28 IR 2768	29 IR 464		A	04-70	28 IR 995	*CPH (28 IR 1498)
312 IAC 11-2-20	A	05-38	28 IR 2768	29 IR 465					*SPE
312 IAC 11-2-24	A	05-38	28 IR 2768	29 IR 465	315 IAC 1-3-10	A	05-73	28 IR 2778	29 IR 474
312 IAC 11-2-25.2	N	05-38	28 IR 2768	29 IR 465		A	04-70	28 IR 995	*CPH (28 IR 1498)
312 IAC 11-2-27.5	N	05-38	28 IR 2769	29 IR 465					*SPE
312 IAC 11-3-1	A	04-94	27 IR 4095	28 IR 1681	315 IAC 1-3-12	A	05-73	28 IR 2778	29 IR 475
312 IAC 11-3-3	A	05-38	28 IR 2769	29 IR 465		A	04-70	28 IR 996	*CPH (28 IR 1498)
312 IAC 11-4-2	A	05-38	28 IR 2770	29 IR 466					*SPE
312 IAC 11-4-3	A	05-38	28 IR 2770	29 IR 467	315 IAC 1-3-14	A	05-73	28 IR 2778	29 IR 475
312 IAC 11-4-4	A	05-38	28 IR 2771	29 IR 467		A	04-70	28 IR 996	*CPH (28 IR 1498)
312 IAC 11-5-3	N	05-38	28 IR 2771	29 IR 468					*SPE
312 IAC 12	RA	05-1	28 IR 2203	28 IR 3661	315 IAC 1-3-15	A	05-73	28 IR 2779	29 IR 475
312 IAC 13	RA	05-1	28 IR 2203	28 IR 3661		N	04-70	28 IR 996	*CPH (28 IR 1498)
312 IAC 16	RA	03-315	27 IR 2339	28 IR 1315					*SPE
312 IAC 16-3-2	A	04-121	27 IR 4097	28 IR 1682		N	05-73	28 IR 2779	29 IR 476
312 IAC 16-3-8	A	04-121	27 IR 4099	28 IR 1684					
312 IAC 16-5-14	A	04-23	27 IR 2532	28 IR 556	TITLE 326 AIR POLLUTION CONTROL BOARD				
312 IAC 16-5-19	A	05-14	28 IR 2410	29 IR 458	326 IAC 1-1-3	A	02-337	26 IR 1997	*ARR (27 IR 2500)
312 IAC 17	RA	03-315	27 IR 2339	28 IR 1315					*CPH (27 IR 2521)
312 IAC 17-3	R	05-99	28 IR 3632						28 IR 17
312 IAC 17-3-1	A	04-23	27 IR 2532	28 IR 557		A	04-299	28 IR 1815	*CPH (28 IR 2406)
312 IAC 17-3-2	A	04-23	27 IR 2532	28 IR 557		A	05-230	29 IR 632	
312 IAC 17-3-3	A	04-23	27 IR 2532	28 IR 557	326 IAC 1-1-3.5	A	02-337	26 IR 1997	*ARR (27 IR 2500)
312 IAC 17-3-4	A	04-23	27 IR 2533	28 IR 558					*CPH (27 IR 2521)
312 IAC 17-3-6	A	04-23	27 IR 2534	28 IR 558					28 IR 18
312 IAC 17-3-8	A	04-23	27 IR 2534	28 IR 558	326 IAC 1-1-6	A	04-299	28 IR 1815	*CPH (28 IR 2406)
312 IAC 17-3-9	A	04-23	27 IR 2534	28 IR 558		N	04-180	28 IR 248	*GRAT (28 IR 2205)
312 IAC 18-3-12	A	04-270	28 IR 1203	*GRAT (28 IR 3053)					28 IR 2046
				28 IR 2951	326 IAC 1-2-33.5	A	05-79	28 IR 3005	
	A	05-213	29 IR 614		326 IAC 1-2-48	A	05-79	28 IR 3005	
312 IAC 18-3-18	N	04-177	28 IR 1201	28 IR 2942	326 IAC 1-2-52	A	03-228	27 IR 3120	28 IR 1471
312 IAC 18-3-19	N	04-127	28 IR 1521	28 IR 2942	326 IAC 1-2-52.2	N	03-228	27 IR 3121	28 IR 1471
312 IAC 19	RA	03-315	27 IR 2339	28 IR 1315	326 IAC 1-2-52.4	N	03-228	27 IR 3121	28 IR 1471
312 IAC 23	RA	05-1	28 IR 2203	28 IR 3661	326 IAC 1-2-65	A	02-337	26 IR 1997	*ARR (27 IR 2500)
312 IAC 25-4-102				*ERR (28 IR 214)					*CPH (27 IR 2521)
312 IAC 25-4-114				*ERR (28 IR 214)	326 IAC 1-2-82.5	N	03-228	27 IR 3121	28 IR 18
312 IAC 25-5-16				*ERR (28 IR 214)	326 IAC 1-2-90	A	02-337	26 IR 1998	*ARR (27 IR 2500)
312 IAC 25-6-20				*ERR (28 IR 214)					*CPH (27 IR 2521)
312 IAC 25-7-1				*ERR (28 IR 214)					28 IR 18
312 IAC 26	RA	03-315	27 IR 2339	28 IR 1315	326 IAC 1-3-4	A	05-79	28 IR 3006	
						A	03-228	27 IR 3121	28 IR 1471
TITLE 315 OFFICE OF ENVIRONMENTAL ADJUDICATION						A	05-235	29 IR 633	
315 IAC 1	RA	04-71	27 IR 2879	28 IR 323	326 IAC 1-4-1	A	04-148	27 IR 3606	28 IR 1182
315 IAC 1-2-1	A	04-70	28 IR 990	*CPH (28 IR 1498)	326 IAC 2-2-13	A	02-337	26 IR 1998	*ARR (27 IR 2500)
				*SPE					*CPH (27 IR 2521)
	A	05-73	28 IR 2772	29 IR 469	326 IAC 2-2-16	A	02-337	26 IR 1999	28 IR 19
315 IAC 1-3-1	A	04-70	28 IR 991	*CPH (28 IR 1498)					*ARR (27 IR 2500)
				*SPE					*CPH (27 IR 2521)
	A	05-73	28 IR 2773	29 IR 469					28 IR 20

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326 IAC 2-5.1-1	RA 04-44	27 IR 3144	28 IR 791	326 IAC 3-5-5	A 02-337	26 IR 2020	*ARR (27 IR 2500)
326 IAC 2-5.1-2	RA 04-44	27 IR 3145	28 IR 791				*CPH (27 IR 2521)
326 IAC 2-5.5-1	RA 04-44	27 IR 3146	28 IR 792				28 IR 34
326 IAC 2-5.5-2	RA 04-44	27 IR 3146	28 IR 793	326 IAC 3-6-1	A 02-337	26 IR 2022	*ARR (27 IR 2500)
326 IAC 2-5.5-3	RA 04-44	27 IR 3146	28 IR 793				*CPH (27 IR 2521)
326 IAC 2-5.5-4	RA 04-44	27 IR 3147	28 IR 793				28 IR 36
326 IAC 2-5.5-5	RA 04-44	27 IR 3147	28 IR 794	326 IAC 3-6-3	A 02-337	26 IR 2022	*ARR (27 IR 2500)
326 IAC 2-5.5-6	RA 04-44	27 IR 3147	28 IR 794				*CPH (27 IR 2521)
326 IAC 2-6.1-1	RA 04-44	27 IR 3149	28 IR 795				28 IR 37
326 IAC 2-6.1-2	RA 04-44	27 IR 3149	28 IR 795	326 IAC 3-6-5	A 02-337	26 IR 2023	*ARR (27 IR 2500)
326 IAC 2-6.1-3	RA 04-44	27 IR 3149	28 IR 795				*CPH (27 IR 2521)
326 IAC 2-6.1-4	RA 04-44	27 IR 3150	28 IR 796				28 IR 37
326 IAC 2-6.1-5	RA 04-44	27 IR 3150	28 IR 796	326 IAC 3-7-2	A 02-337	26 IR 2024	*ARR (27 IR 2500)
326 IAC 2-6.1-6	RA 04-44	27 IR 3151	28 IR 797				*CPH (27 IR 2521)
326 IAC 2-6.1-7	RA 04-44	27 IR 3154	28 IR 801				28 IR 38
326 IAC 2-7-3	A 02-337	26 IR 2006	*ARR (27 IR 2500)	326 IAC 3-7-4	A 02-337	26 IR 2025	*ARR (27 IR 2500)
			*CPH (27 IR 2521)				*CPH (27 IR 2521)
			28 IR 20				28 IR 40
326 IAC 2-7-8	A 02-337	26 IR 2006	*ARR (27 IR 2500)	326 IAC 5-1-2	A 02-337	26 IR 2026	*ARR (27 IR 2500)
			*CPH (27 IR 2521)				*CPH (27 IR 2521)
			28 IR 20				28 IR 40
326 IAC 2-7-18	A 02-337	26 IR 2007	*ARR (27 IR 2500)	326 IAC 5-1-4	A 02-337	26 IR 2026	*ARR (27 IR 2500)
			*CPH (27 IR 2521)				*CPH (27 IR 2521)
			28 IR 21				28 IR 41
326 IAC 2-8-3	A 02-337	26 IR 2008	*ARR (27 IR 2500)	326 IAC 5-1-5	A 02-337	26 IR 2027	*ARR (27 IR 2500)
			*CPH (27 IR 2521)				*CPH (27 IR 2521)
			28 IR 22				28 IR 41
326 IAC 2-9-1	RA 04-44	27 IR 3155	28 IR 801	326 IAC 6-1-1	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-2.5	RA 04-44	27 IR 3156	28 IR 802	326 IAC 6-1-1.5	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-3	RA 04-44	27 IR 3156	28 IR 803	326 IAC 6-1-2	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-4	RA 04-44	27 IR 3157	28 IR 803	326 IAC 6-1-3	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-5	RA 04-44	27 IR 3158	28 IR 805	326 IAC 6-1-4	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-6	RA 04-44	27 IR 3159	28 IR 805	326 IAC 6-1-5	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-7	A 02-337	26 IR 2009	*ARR (27 IR 2500)	326 IAC 6-1-6	R 02-335	28 IR 1813	28 IR 3550
			*CPH (27 IR 2521)	326 IAC 6-1-7	R 02-335	28 IR 1813	28 IR 3550
			28 IR 23	326 IAC 6-1-8.1	R 02-335	28 IR 1813	28 IR 3550
	RA 04-44	27 IR 3159	28 IR 805	326 IAC 6-1-9	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-8	A 02-337	26 IR 2010	*ARR (27 IR 2500)	326 IAC 6-1-10.1	R 02-335	28 IR 1813	28 IR 3550
			*CPH (27 IR 2521)	326 IAC 6-1-10.2	R 02-335	28 IR 1813	28 IR 3550
			28 IR 25	326 IAC 6-1-11.1	R 02-335	28 IR 1813	28 IR 3550
	RA 04-44	27 IR 3160	28 IR 806	326 IAC 6-1-11.2	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-9	A 02-337	26 IR 2012	*ARR (27 IR 2500)	326 IAC 6-1-12	A 04-43	28 IR 242	*GRAT (28 IR 2204)
			*CPH (27 IR 2521)				28 IR 2037
			28 IR 26				*ERR (28 IR 2137)
	RA 04-44	27 IR 3162	28 IR 808				28 IR 3550
326 IAC 2-9-10	A 02-337	26 IR 2013	*ARR (27 IR 2500)	326 IAC 6-1-13	R 02-335	28 IR 1813	28 IR 3550
			*CPH (27 IR 2521)		A 03-195	27 IR 2318	28 IR 115
			28 IR 27		R 02-335	28 IR 1813	28 IR 3550
	RA 04-44	27 IR 3163	28 IR 809	326 IAC 6-1-14	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-11	RA 04-44	27 IR 3164	28 IR 810	326 IAC 6-1-15	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-12	RA 04-44	27 IR 3165	28 IR 811	326 IAC 6-1-16	R 02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-13	A 02-337	26 IR 2014	*ARR (27 IR 2500)	326 IAC 6-1-17	R 02-335	28 IR 1813	28 IR 3550
			*CPH (27 IR 2521)	326 IAC 6-1-18	R 02-335	28 IR 1813	28 IR 3550
			28 IR 28	326 IAC 6.5	N 02-335	28 IR 1714	28 IR 3454
	RA 04-44	27 IR 3165	28 IR 811				*ERR (29 IR 548)
326 IAC 2-9-14	RA 04-44	27 IR 3167	28 IR 814	326 IAC 6.5-7-13	A 04-234	28 IR 1814	*CPH (28 IR 2406)
326 IAC 3-4-1	A 02-337	26 IR 2016	*ARR (27 IR 2500)				29 IR 476
			*CPH (27 IR 2521)	326 IAC 6.8	N 02-335	28 IR 1766	28 IR 3503
			28 IR 30	326 IAC 6.8-2-4	A 04-278	28 IR 3004	
326 IAC 3-4-3	A 02-337	26 IR 2016	*ARR (27 IR 2500)	326 IAC 7-1.1-1	A 00-236	28 IR 632	*CPH (28 IR 982)
			*CPH (27 IR 2521)				*CPH (28 IR 1710)
			28 IR 31				28 IR 2953
326 IAC 3-5-2	A 02-337	26 IR 2017	*ARR (27 IR 2500)	326 IAC 7-1.1-2	A 00-236	28 IR 632	*CPH (28 IR 982)
			*CPH (27 IR 2521)				*CPH (28 IR 1710)
			28 IR 32				28 IR 2953
326 IAC 3-5-3	A 02-337	26 IR 2019	*ARR (27 IR 2500)	326 IAC 7-2-1	A 02-337	26 IR 2028	*ARR (27 IR 2500)
			*CPH (27 IR 2521)				*CPH (27 IR 2521)
			28 IR 33				28 IR 42
326 IAC 3-5-4	A 02-337	26 IR 2019	*ARR (27 IR 2500)		A 00-236	28 IR 632	*CPH (28 IR 982)
			*CPH (27 IR 2521)				*CPH (28 IR 1710)
			28 IR 34				28 IR 2953

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326 IAC 7-4-1.1	R	00-236	28 IR 644	*CPH (28 IR 982) *CPH (28 IR 1710) 28 IR 2966	326 IAC 10-1-4	A	02-337	26 IR 2057	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 71
326 IAC 7-4-3	A	03-195	27 IR 2319	28 IR 117	326 IAC 10-1-5	A	02-337	26 IR 2059	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 73
326 IAC 7-4-10	A	02-337	26 IR 2029	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 43	326 IAC 10-1-6	A	02-337	26 IR 2059	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 74
326 IAC 7-4-13	A	03-282	27 IR 2768	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2021	326 IAC 10-3-3	A	04-200	28 IR 2781	
326 IAC 7-4-1	N	00-236	28 IR 633	*CPH (28 IR 982) *CPH (28 IR 1710) 28 IR 2954	326 IAC 10-4-1	A	04-200	28 IR 2782	
326 IAC 8-1-4	A	02-337	26 IR 2030	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 44	326 IAC 10-4-2	A	04-200	28 IR 2783	
326 IAC 8-4-6	A	02-337	26 IR 2032	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 47	326 IAC 10-4-3	A	04-200	28 IR 2790	
326 IAC 8-4-9	A	02-337	26 IR 2035	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 49	326 IAC 10-4-9	A	04-200	28 IR 2791	
326 IAC 8-7-7	A	02-337	26 IR 2036	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 51	326 IAC 10-4-13	A	04-200	28 IR 2797	
326 IAC 8-9-2	A	02-337	26 IR 2037	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 51	326 IAC 10-4-14	A	04-200	28 IR 2801	
326 IAC 8-9-3	A	02-337	26 IR 2037	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 51	326 IAC 10-4-15	A	04-200	28 IR 2801	
326 IAC 8-9-4	A	02-337	26 IR 2038	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 52	326 IAC 10-5	N	04-200	28 IR 2803	
326 IAC 8-9-5	A	02-337	26 IR 2040	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 54	326 IAC 11-3-4	A	02-337	26 IR 2060	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 74
326 IAC 8-9-6	A	02-337	26 IR 2042	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 56	326 IAC 11-7-1	A	02-337	26 IR 2061	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 75
326 IAC 8-10-7	A	02-337	26 IR 2044	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 58	326 IAC 13-1.1-1	A	02-337	26 IR 2062	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 76
326 IAC 8-11-2	A	02-337	26 IR 2044	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 59	326 IAC 13-1.1-8	A	02-337	26 IR 2063	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 77
326 IAC 8-11-6	A	02-337	26 IR 2046	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 61	326 IAC 13-1.1-10	A	02-337	26 IR 2063	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 78
326 IAC 8-11-7	A	02-337	26 IR 2050	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 64	326 IAC 13-1.1-13	A	02-337	26 IR 2064	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 79
326 IAC 8-12-3	A	02-337	26 IR 2050	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 65	326 IAC 13-1.1-14	A	02-337	26 IR 2065	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 80
326 IAC 8-12-5	A	02-337	26 IR 2052	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 67	326 IAC 13-1.1-16	A	02-337	26 IR 2066	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 81
326 IAC 8-12-6	A	02-337	26 IR 2053	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 68	326 IAC 14-1-1	A	02-337	26 IR 2066	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 81
326 IAC 8-12-7	A	02-337	26 IR 2054	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 68	326 IAC 14-1-2	A	02-337	26 IR 2067	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 81
326 IAC 8-13-5	A	02-337	26 IR 2055	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 69	326 IAC 14-1-4	R	02-337	26 IR 2099	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 114
326 IAC 10-1-2	A	02-337	26 IR 2056	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 70	326 IAC 14-3-1	A	02-337	26 IR 2067	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 82
					326 IAC 14-4-1	A	02-337	26 IR 2067	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 82
					326 IAC 14-5-1	A	02-337	26 IR 2068	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 82
					326 IAC 14-7-1	A	02-337	26 IR 2068	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 83
					326 IAC 14-8-1	A	02-337	26 IR 2068	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 83
					326 IAC 14-8-3	A	02-337	26 IR 2069	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 83

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326 IAC 14-8-4	A	02-337	26 IR 2069	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 84	326 IAC 18-2-2	A	02-337	26 IR 2088	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 103
326 IAC 14-8-5	A	02-337	26 IR 2069	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 84		A	03-283	27 IR 3134	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2028
326 IAC 14-9-5	A	02-337	26 IR 2070	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 84	326 IAC 18-2-3	A	02-337	26 IR 2090	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 104
326 IAC 14-9-8	A	02-337	26 IR 2071	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 85		A	03-283	27 IR 3136	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2030
326 IAC 14-9-9	A	02-337	26 IR 2071	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 86	326 IAC 18-2-6	A	02-337	26 IR 2096	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 111
326 IAC 14-10-1	A	02-337	26 IR 2072	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 87	326 IAC 18-2-7	A	02-337	26 IR 2097	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 112
326 IAC 14-10-2	A	02-337	26 IR 2074	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 88	326 IAC 19-2-1	A	05-80	28 IR 3007	
326 IAC 14-10-3	A	02-337	26 IR 2076	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 91	326 IAC 20-25-1	A	03-264	27 IR 3123	*CPH (27 IR 3590) *GRAT (28 IR 2204) 28 IR 2017
326 IAC 14-10-4	A	02-337	26 IR 2078	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 93	326 IAC 20-25-2	A	03-264	27 IR 3124	*CPH (27 IR 3590) *GRAT (28 IR 2204) 28 IR 2018
326 IAC 15-1-2	A	02-337	26 IR 2080	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 95	326 IAC 20-29	N	05-236	29 IR 635	
326 IAC 15-1-4	A	02-337	26 IR 2083	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 98	326 IAC 20-56	N	03-264	27 IR 3126	*CPH (27 IR 3590) *GRAT (28 IR 2204) 28 IR 2020
326 IAC 16-3-1	A	02-337	26 IR 2084	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 98	326 IAC 20-57	N	03-284	27 IR 1618	*CPH (27 IR 1937) 28 IR 119
326 IAC 18-1-1	A	03-283	27 IR 3128	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2022	326 IAC 20-58	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119
326 IAC 18-1-2	A	02-337	26 IR 2084	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 99	326 IAC 20-59	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119
	A	03-283	27 IR 3128	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2022	326 IAC 20-60	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119
326 IAC 18-1-3	A	03-283	27 IR 3130	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2024	326 IAC 20-61	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 120
326 IAC 18-1-4	A	03-283	27 IR 3131	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2025	326 IAC 20-62	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 120
326 IAC 18-1-5	A	02-337	26 IR 2086	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 101	326 IAC 20-63	N	03-285	27 IR 2322	28 IR 121
	A	03-283	27 IR 3132	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2026	326 IAC 20-64	N	03-285	27 IR 2322	28 IR 121
326 IAC 18-1-6	A	03-283	27 IR 3133	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2027	326 IAC 20-65	N	03-285	27 IR 2322	28 IR 121
326 IAC 18-1-7	A	02-337	26 IR 2087	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 102	326 IAC 20-66	N	03-285	27 IR 2323	28 IR 122
326 IAC 18-1-8	A	02-337	26 IR 2088	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 103	326 IAC 20-67	N	03-285	27 IR 2323	28 IR 122
326 IAC 18-1-9	A	03-283	27 IR 3134	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2028	326 IAC 20-68	N	03-285	27 IR 2323	28 IR 122
					326 IAC 20-69	N	03-285	27 IR 2323	28 IR 122
					326 IAC 20-70	N	03-284	27 IR 1620	*CPH (27 IR 1937) 28 IR 120
					326 IAC 20-71	N	04-107	27 IR 3168	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2043
					326 IAC 20-72	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2043
					326 IAC 20-73	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2044
					326 IAC 20-74	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2044
					326 IAC 20-75	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2044

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326 IAC 20-76	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2044	327 IAC 2-1.5-10	A	03-129	27 IR 3650	*GRAT (28 IR 2205) 28 IR 2084
326 IAC 20-77	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2045	327 IAC 2-1.5-11	A	03-129	27 IR 3651	*GRAT (28 IR 2205) 28 IR 2084
326 IAC 20-78	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2045	327 IAC 2-1.5-16	A	03-129	27 IR 3660	*GRAT (28 IR 2205) 28 IR 2093
326 IAC 20-79	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2045	327 IAC 2-1.5-20	A	03-129	27 IR 3662	*ERR (28 IR 3582) *GRAT (28 IR 2205) 28 IR 2096
326 IAC 20-82	N	04-235	28 IR 997	28 IR 2966	327 IAC 2-4-3	A	03-129	27 IR 3663	*GRAT (28 IR 2205) 28 IR 2097
326 IAC 20-83	N	04-236	28 IR 998	28 IR 2967	327 IAC 3-2-1.5	N	04-320	28 IR 2192	28 IR 3551
326 IAC 20-84	N	04-236	28 IR 998	28 IR 2967	327 IAC 3-2-3.5	N	04-320	28 IR 2192	28 IR 3552
326 IAC 20-85	N	04-236	28 IR 999	28 IR 2967	327 IAC 3-2-5.5	N	04-320	28 IR 2193	28 IR 3552
326 IAC 20-86	N	04-236	28 IR 999	28 IR 2967	327 IAC 5-1.5-72	A	03-129	27 IR 3663	*GRAT (28 IR 2205) 28 IR 2097
326 IAC 20-87	N	04-236	28 IR 999	28 IR 2968	327 IAC 5-2-1.5	A	03-129	27 IR 3663	*GRAT (28 IR 2205) 28 IR 2097
326 IAC 20-88	N	04-236	28 IR 999	28 IR 2968	327 IAC 5-2-11.1	A	03-129	27 IR 3664	*GRAT (28 IR 2205) 28 IR 2097
326 IAC 20-90	N	04-300	28 IR 1816	28 IR 3550	327 IAC 5-2-11.2	A	03-129	27 IR 3668	*GRAT (28 IR 2205) 28 IR 2101
326 IAC 20-91	N	04-300	28 IR 1816	28 IR 3550	327 IAC 5-2-11.4	A	03-129	27 IR 3669	*GRAT (28 IR 2205) 28 IR 2102
326 IAC 20-92	N	04-300	28 IR 1817	28 IR 3550	327 IAC 5-2-11.5	A	03-129	27 IR 3679	*ERR (28 IR 3582) *GRAT (28 IR 2205) 28 IR 2112
326 IAC 20-93	N	04-300	28 IR 1817	28 IR 3551	327 IAC 5-2-11.6	A	03-129	27 IR 3689	*GRAT (28 IR 2205) 28 IR 2120
326 IAC 20-94	N	04-300	28 IR 1817	28 IR 3551	327 IAC 5-2-13	A	03-129	27 IR 3694	*GRAT (28 IR 2205) 28 IR 2125
326 IAC 22-1-1	A	02-337	26 IR 2098	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 113	327 IAC 5-2-15	A	03-129	27 IR 3694	*GRAT (28 IR 2205) 28 IR 2126
326 IAC 23-1-31	A	02-337	26 IR 2099	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 114	327 IAC 5-3.5	N	03-130	28 IR 650	*CPH (28 IR 1197) 28 IR 2349
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327 IAC 1-1-1	A	03-129	27 IR 3608	*GRAT (28 IR 2205) 28 IR 2046	327 IAC 8-1-1	A	04-106	28 IR 2163	*ERR (28 IR 3582) *ARR (29 IR 31)
327 IAC 1-1-2	A	03-129	27 IR 3608	*GRAT (28 IR 2205) 28 IR 2046	327 IAC 8-1-2	A	04-106	28 IR 2164	*ARR (29 IR 31)
327 IAC 1-1-3	A	03-129	27 IR 3608	*GRAT (28 IR 2205) 28 IR 2046	327 IAC 8-1-3	A	04-106	28 IR 2164	*ARR (29 IR 31)
327 IAC 2-1-5	A	03-129	27 IR 3608	*GRAT (28 IR 2205) 28 IR 2047	327 IAC 8-1-4	A	04-106	28 IR 2165	*ARR (29 IR 31)
327 IAC 2-1-6	A	03-129	27 IR 3609	*GRAT (28 IR 2205) 28 IR 2047	327 IAC 8-2-1	A	04-13	28 IR 1206	28 IR 3184
327 IAC 2-1-8	A	03-129	27 IR 3617	*GRAT (28 IR 2205) 28 IR 2055	327 IAC 8-2-4	A	04-13	28 IR 1210	28 IR 3188
327 IAC 2-1-8.1	A	03-129	27 IR 3617	*GRAT (28 IR 2205) 28 IR 2055	327 IAC 8-2-4.1	A	04-13	28 IR 1212	28 IR 3190
327 IAC 2-1-8.2	A	03-129	27 IR 3618	*GRAT (28 IR 2205) 28 IR 2056	327 IAC 8-2-4.2	A	04-13	28 IR 1217	28 IR 3196
327 IAC 2-1-8.3	A	03-129	27 IR 3620	*GRAT (28 IR 2205) 28 IR 2057					*ERR (28 IR 3582) *ERR (29 IR 30)
327 IAC 2-1-8.9	N	03-129	27 IR 3621	*GRAT (28 IR 2205) 28 IR 2058	327 IAC 8-2-5.1	A	04-13	28 IR 1220	28 IR 3198
327 IAC 2-1-9	A	03-129	27 IR 3622	*ERR (28 IR 3582) *GRAT (28 IR 2205) 28 IR 2060	327 IAC 8-2-5.2	A	04-13	28 IR 1222	28 IR 3200
327 IAC 2-1-12	A	03-129	27 IR 3627	*GRAT (28 IR 2205) 28 IR 2064	327 IAC 8-2-5.5	A	04-13	28 IR 1225	*ERR (28 IR 3582) 28 IR 3203
327 IAC 2-1-13	N	03-129	27 IR 3627	*GRAT (28 IR 2205) 28 IR 2065	327 IAC 8-2-8.5	A	04-13	28 IR 1228	*ERR (28 IR 3582) 28 IR 3206
327 IAC 2-1.5-2	A	03-129	27 IR 3631	*GRAT (28 IR 2205) 28 IR 2068	327 IAC 8-2-8.7	A	04-13	28 IR 1229	28 IR 3207
327 IAC 2-1.5-6	A	03-129	27 IR 3637	*GRAT (28 IR 2205) 28 IR 2074	327 IAC 8-2-9	A	04-13	28 IR 1230	*ERR (28 IR 3582) 28 IR 3209
327 IAC 2-1.5-8	A	03-129	27 IR 3638	*GRAT (28 IR 2205) 28 IR 2074	327 IAC 8-2-10.1	A	04-13	28 IR 1230	*ERR (28 IR 3582) 28 IR 3209
					327 IAC 8-2-10.2	A	04-13	28 IR 1233	*ERR (28 IR 3582) 28 IR 3212
					327 IAC 8-2-10.3	N	04-13	28 IR 1237	*ERR (28 IR 3582) 28 IR 3215
					327 IAC 8-2-13	A	04-13	28 IR 1239	28 IR 3217
					327 IAC 8-2-34	A	04-13	28 IR 1239	28 IR 3218
					327 IAC 8-2-34.1	N	04-13	28 IR 1240	28 IR 3218
					327 IAC 8-2-45	A	04-13	28 IR 1240	28 IR 3218
					327 IAC 8-2-46	A	04-13	28 IR 1242	*ERR (28 IR 3583) 28 IR 3220
					327 IAC 8-2-1-3	A	04-13	28 IR 1244	28 IR 3223
					327 IAC 8-2-1-4	A	04-13	28 IR 1247	*ERR (28 IR 3583) 28 IR 3226

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327 IAC 8-2.1-6	A	04-13	28 IR 1248	28 IR 3227	328 IAC 1-1-5.1	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 124
327 IAC 8-2.1-8	A	04-13	28 IR 1255	28 IR 3233	328 IAC 1-1-7.5	N	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 124
327 IAC 8-2.1-9	A	04-13	28 IR 1256	28 IR 3234	328 IAC 1-1-8	R	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144
327 IAC 8-2.1-14	A	04-13	28 IR 1257	28 IR 3235	328 IAC 1-1-8.3	N	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 124
327 IAC 8-2.1-16	A	04-13	28 IR 1257	28 IR 3236	328 IAC 1-1-8.5	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
				*ERR (28 IR 3583)	328 IAC 1-1-9	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-2.1-17	A	04-13	28 IR 1261	28 IR 3240	328 IAC 1-1-10	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-2.6-1	A	04-13	28 IR 1268	28 IR 3247	328 IAC 1-2-1	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
				*ERR (29 IR 30)	328 IAC 1-2-3	A	02-204	27 IR 2780	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-2.6-2	A	04-13	28 IR 1269	28 IR 3248	328 IAC 1-3-1	A	02-204	27 IR 2780	*CPH (27 IR 3095) 28 IR 126
				*ERR (28 IR 3583)	328 IAC 1-3-1.3	N	02-204	27 IR 2780	*CPH (27 IR 3095) 28 IR 126
327 IAC 8-2.6-2.1	N	04-13	28 IR 1271	28 IR 3250	328 IAC 1-3-1.6	N	02-204	27 IR 2781	*CPH (27 IR 3095) 28 IR 127
				*ERR (28 IR 3583)	328 IAC 1-3-2	A	02-204	27 IR 2781	*CPH (27 IR 3095) 28 IR 127
327 IAC 8-2.6-3	A	04-13	28 IR 1273	28 IR 3252	328 IAC 1-3-3	A	02-204	27 IR 2781	*CPH (27 IR 3095) 28 IR 127
327 IAC 8-2.6-4	A	04-13	28 IR 1274	28 IR 3253	328 IAC 1-3-4	A	02-204	27 IR 2783	*CPH (27 IR 3095) 28 IR 129
327 IAC 8-2.6-5	A	04-13	28 IR 1274	28 IR 3253	328 IAC 1-3-5	A	02-204	27 IR 2784	*CPH (27 IR 3095) 28 IR 129
327 IAC 8-3-1	A	04-106	28 IR 2165	*ARR (29 IR 31)	328 IAC 1-3-6	A	02-204	27 IR 2791	*CPH (27 IR 3095) 28 IR 137
327 IAC 8-3-1.1	A	04-106	28 IR 2166	*ARR (29 IR 31)	328 IAC 1-4-1	A	02-204	27 IR 2791	*CPH (27 IR 3095) 28 IR 137
327 IAC 8-3-2	A	04-106	28 IR 2166	*ARR (29 IR 31)					*ERR (28 IR 608)
327 IAC 8-3-2.1	N	04-106	28 IR 2167	*ARR (29 IR 31)	328 IAC 1-4-1.5	N	02-204		†† 28 IR 140
327 IAC 8-3-3	A	04-106	28 IR 2168	*ARR (29 IR 31)	328 IAC 1-4-3	A	02-204	27 IR 2794	*CPH (27 IR 3095) 28 IR 141
327 IAC 8-3-3.1	A	04-106	28 IR 2168	*ARR (29 IR 31)					*ERR (28 IR 608)
327 IAC 8-3-3.1-1	A	04-106	28 IR 2169	*ARR (29 IR 31)	328 IAC 1-4-4	N	02-204	27 IR 2795	*CPH (27 IR 3095) 28 IR 141
327 IAC 8-3-3.1-2	A	04-106	28 IR 2169	*ARR (29 IR 31)					*ERR (28 IR 608)
327 IAC 8-3-3.2-1	A	04-106	28 IR 2170	*ARR (29 IR 31)	328 IAC 1-4-5	N	02-204		†† 28 IR 141
327 IAC 8-3-3.2-2	A	04-106	28 IR 2170	*ARR (29 IR 31)	328 IAC 1-5-1	A	02-204	27 IR 2795	*CPH (27 IR 3095) 28 IR 142
327 IAC 8-3-3.2-4	A	04-106	28 IR 2171	*ARR (29 IR 31)	328 IAC 1-5-2	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 142
327 IAC 8-3-3.2-8	A	04-106	28 IR 2171	*ARR (29 IR 31)	328 IAC 1-5-3	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143
327 IAC 8-3-3.2-11	A	04-106	28 IR 2173	*ARR (29 IR 31)	328 IAC 1-6-1	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143
327 IAC 8-3-3.2-17	A	04-106	28 IR 2173	*ARR (29 IR 31)	328 IAC 1-6-2	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143
327 IAC 8-3-3.2-18	A	04-106	28 IR 2174	*ARR (29 IR 31)	328 IAC 1-7-2	A	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144
327 IAC 8-3-3.2-20	A	04-106	28 IR 2175	*ARR (29 IR 31)	328 IAC 1-7-3	R	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144
327 IAC 8-3-3.3-4	A	04-106	28 IR 2175	*ARR (29 IR 31)					
327 IAC 8-3-3.3-5	A	04-106	28 IR 2176	*ARR (29 IR 31)					
327 IAC 8-3-3.3-6	A	04-106	28 IR 2176	*ARR (29 IR 31)					
327 IAC 8-3-3.4-1	A	04-106	28 IR 2176	*ARR (29 IR 31)					
327 IAC 8-3-3.4-2	A	04-106	28 IR 2178	*ARR (29 IR 31)					
327 IAC 8-3-3.4-3	A	04-106	28 IR 2178	*ARR (29 IR 31)					
327 IAC 8-3-3.4-4	A	04-106	28 IR 2179	*ARR (29 IR 31)					
327 IAC 8-3-3.4-8	A	04-106	28 IR 2180	*ARR (29 IR 31)					
327 IAC 8-3-3.4-9	A	04-106	28 IR 2180	*ARR (29 IR 31)					
327 IAC 8-3-3.4-9.1	N	04-106	28 IR 2182	*ARR (29 IR 31)					
327 IAC 8-3-3.4-12	A	04-106	28 IR 2183	*ARR (29 IR 31)					
327 IAC 8-3-3.4-13	A	04-106	28 IR 2183	*ARR (29 IR 31)					
327 IAC 8-3-3.4-14	A	04-106	28 IR 2183	*ARR (29 IR 31)					
327 IAC 8-3-3.4-16	A	04-106	28 IR 2184	*ARR (29 IR 31)					
327 IAC 8-3-3.4-17	A	04-106	28 IR 2185	*ARR (29 IR 31)					
327 IAC 8-3-3.4-23	A	04-106	28 IR 2185	*ARR (29 IR 31)					
327 IAC 8-3-3.4-24	A	04-106	28 IR 2186	*ARR (29 IR 31)					
327 IAC 8-3-3.4-25	A	04-106	28 IR 2187	*ARR (29 IR 31)					
327 IAC 8-3-3.4-27	A	04-106	28 IR 2188	*ARR (29 IR 31)					
327 IAC 8-3-3.5-1	A	04-106	28 IR 2188	*ARR (29 IR 31)					
327 IAC 8-3-3.5-2	A	04-106	28 IR 2189	*ARR (29 IR 31)					
327 IAC 8-3-3.5-5	A	04-106	28 IR 2189	*ARR (29 IR 31)					
327 IAC 8-4-1	A	04-106	28 IR 2190	*ARR (29 IR 31)					
327 IAC 8-4-2	N	04-106	28 IR 2191	*ARR (29 IR 31)					
327 IAC 8-6-1	A	04-106	28 IR 2191	*ARR (29 IR 31)					
327 IAC 15-14				*ERR (28 IR 214)					
327 IAC 17	N	04-228	28 IR 1288	28 IR 2968					
				*ERR (29 IR 548)					
TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD					TITLE 329 SOLID WASTE MANAGEMENT BOARD				
328 IAC 1-1-2	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 123	329 IAC 3.1-1-7	A	03-312	27 IR 4110	28 IR 2661
328 IAC 1-1-3	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 123	329 IAC 3.1-6-2	A	03-312	27 IR 4111	28 IR 2662
328 IAC 1-1-4	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 124	329 IAC 3.1-6-3	A	03-312	27 IR 4112	28 IR 2663
					329 IAC 3.1-6-6	A	04-318	28 IR 2194	28 IR 3553
					329 IAC 3.1-7.5	N	03-312	27 IR 4112	28 IR 2663
					329 IAC 3.1-12-2	A	03-312	27 IR 4113	28 IR 2665
					329 IAC 3.1-13-2	A	03-312	27 IR 4114	28 IR 2665

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329 IAC 9-1-1	A	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-1-14	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3177	28 IR 145				27 IR 3178	28 IR 146
329 IAC 9-1-4	A	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-1-14.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3177	28 IR 145				27 IR 3209	28 IR 177
329 IAC 9-1-10.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-1-14.3	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3209	28 IR 177				27 IR 3178	28 IR 146
329 IAC 9-1-10.2	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-1-14.5	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3209	28 IR 177				27 IR 3178	28 IR 146
329 IAC 9-1-10.4	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-1-14.7	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3177	28 IR 146				27 IR 3178	28 IR 146
329 IAC 9-1-10.6	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-1-25	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3178	28 IR 146				27 IR 3178	28 IR 146
329 IAC 9-1-10.8	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-1-27	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3178	28 IR 146				27 IR 3178	28 IR 147

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329 IAC 9-1-29.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-1-47	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3209	28 IR 177				27 IR 3179	28 IR 147
329 IAC 9-1-36	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-1-47.1	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3179	28 IR 147				27 IR 3179	28 IR 147
329 IAC 9-1-36.5	N	01-161	27 IR 3179	*CPH (26 IR 1962)	329 IAC 9-2-1	A	01-161	26 IR 1211	*CPH (26 IR 1962)
329 IAC 9-1-39.5	N	01-161	26 IR 1211	*CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)				26 IR 1211	*CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3179	28 IR 147				27 IR 3179	28 IR 147
329 IAC 9-1-41	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-2-2	A	01-161	26 IR 1214	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3179	28 IR 147				27 IR 3179	28 IR 147
329 IAC 9-1-41.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-2-1-1	A	01-161	26 IR 1215	*ERR (28 IR 608) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3209	28 IR 177				27 IR 3183	28 IR 151
329 IAC 9-1-41.5	N	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-3-1	A	01-161	26 IR 1216	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3209	28 IR 177				27 IR 3183	28 IR 151
329 IAC 9-1-42.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-3-2	N	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3179	28 IR 147				27 IR 3184	28 IR 152
			26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)				26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3209	28 IR 177				27 IR 3187	28 IR 155

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329 IAC 9-3.1-1	A	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-2	A	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3187	28 IR 155				27 IR 3191	28 IR 160
329 IAC 9-3.1-2	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-3.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3187	28 IR 155				27 IR 3209	28 IR 177
329 IAC 9-3.1-3	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-3.2	N	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3188	28 IR 156				27 IR 3192	28 IR 160
329 IAC 9-3.1-4	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-4.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3188	28 IR 156				27 IR 3209	28 IR 177
329 IAC 9-4-3	A	01-161	26 IR 1220	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-4.2	N	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3189	28 IR 157				27 IR 3192	28 IR 160
329 IAC 9-4-4	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-5.1	A	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3189	28 IR 158				27 IR 3193	28 IR 161
329 IAC 9-5-1	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-6	A	01-161	26 IR 1226	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3190	28 IR 158				27 IR 3196	28 IR 164

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329 IAC 9-5-7	A	01-161	26 IR 1227	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-7-1	A	01-161	26 IR 1235	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	
			27 IR 3196	28 IR 165				27 IR 3205	28 IR 173	
329 IAC 9-6-1	A	01-161	26 IR 1229	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-7-2	A	01-161	26 IR 1236	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	
			27 IR 3199	28 IR 168				27 IR 3206	28 IR 174	
329 IAC 9-6-2	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-7-4	A	01-161	26 IR 1237	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	
			27 IR 3209	28 IR 177				27 IR 3207	28 IR 175	
329 IAC 9-6-2.5	N	01-161	26 IR 1230	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-7-5	A	01-161	27 IR 3209	28 IR 177	
			26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-7-6	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	
			27 IR 3200	28 IR 168				27 IR 3209	28 IR 177	
329 IAC 9-6-3	A	01-161	26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-8-13				*ERR (28 IR 2391)	
			27 IR 3204	28 IR 172	329 IAC 10-2-112	A	04-256	28 IR 1301	28 IR 2670	
329 IAC 9-6-4	A	01-161	26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 10-8-2				*ERR (28 IR 608)	
			27 IR 3204	28 IR 173	329 IAC 10-9-2				*ERR (28 IR 608)	
			26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 10-9-4				*ERR (28 IR 1485)	
			27 IR 3204	28 IR 173	329 IAC 10-11-6.5	N	04-256	28 IR 1301	28 IR 2670	
			26 IR 1234	*ERR (28 IR 1184) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 10-20-14.1				*ERR (28 IR 608)	
			27 IR 3204	28 IR 173	329 IAC 10-36-19				*ERR (28 IR 608)	
			26 IR 1235	*ERR (28 IR 1184) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 11-3-2				*ERR (28 IR 608)	
			26 IR 1235	28 IR 173	329 IAC 11-8-2.5				*ERR (28 IR 608)	
			26 IR 1235	*ERR (28 IR 1184) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 11-19-3				*ERR (28 IR 608)	
			26 IR 1235	28 IR 173	329 IAC 11-20-1				*ERR (27 IR 4023)	
			26 IR 1235	*ERR (28 IR 1184) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 12-8-4	A	03-286	27 IR 3696	28 IR 2127	
			26 IR 1235	28 IR 173	329 IAC 12-8-5	A	03-286	27 IR 3697	28 IR 2128	
			26 IR 1235	*ERR (28 IR 1184) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 12-9-2	A	03-286	27 IR 3698	28 IR 2128	
			26 IR 1235	28 IR 173	329 IAC 13-3-1	A	03-312	27 IR 4115	28 IR 2666	
			26 IR 1235	*ERR (28 IR 1184) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 13-3-4	N	03-312	27 IR 4116	28 IR 2668	
			26 IR 1235	28 IR 173	329 IAC 13-9-5	A	03-312	27 IR 4117	28 IR 2669	
			26 IR 1235	*ERR (28 IR 1184) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 15-1-1				*ER (28 IR 214)	
			26 IR 1235	28 IR 173	TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH					
			26 IR 1235	*ERR (28 IR 1184) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	345 IAC 1-2.5	N	04-248	28 IR 1818	28 IR 3554	
			26 IR 1235	28 IR 173	345 IAC 1-3-6.5	R	04-147	27 IR 4136	28 IR 2687	
			26 IR 1235	*ERR (28 IR 1184) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	345 IAC 1-3-7	A	04-147	27 IR 4120	28 IR 2671	

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345 IAC 1-3-9	R	04-147	27 IR 4136	28 IR 2687	355 IAC 2-8	R	04-312	28 IR 1846	28 IR 3578
345 IAC 1-3-10	A	04-147	27 IR 4121	28 IR 2672	355 IAC 2-9-1	A	04-312	28 IR 1846	28 IR 3578
345 IAC 1-3-20	R	05-41	28 IR 3648		355 IAC 4-2-2	A	04-309	28 IR 1834	29 IR 6
345 IAC 1-3-31	A	04-287	28 IR 1833	28 IR 3569	355 IAC 4-2-8	A	04-309	28 IR 1834	29 IR 6
345 IAC 1-5-3	A	05-90	28 IR 3652		355 IAC 4-5-1	A	04-310	28 IR 1835	29 IR 7
345 IAC 2-4-1	R	04-147	27 IR 4136	28 IR 2687	355 IAC 4-5-2	A	04-310	28 IR 1836	29 IR 7
345 IAC 2.5	N	04-147	27 IR 4121	28 IR 2672	355 IAC 4-5-3	A	04-310	28 IR 1836	29 IR 8
345 IAC 4-4-1	A	04-135	27 IR 4118	28 IR 1473	355 IAC 4-5-4	R	04-310	28 IR 1836	29 IR 8
345 IAC 5-1-1	R	05-41	28 IR 3648		355 IAC 4-5-5	R	04-310	28 IR 1836	29 IR 8
345 IAC 5-1-2	R	05-41	28 IR 3648		355 IAC 4-5-6	R	04-310	28 IR 1836	29 IR 8
345 IAC 5-2	N	05-41	28 IR 3633		355 IAC 4-5-11	R	04-310	28 IR 1836	29 IR 8
345 IAC 5-3	N	05-41	28 IR 3641		355 IAC 4-6-1	A	04-311	28 IR 1837	29 IR 8
345 IAC 5-4	N	05-41	28 IR 3642		355 IAC 4-6-2	R	04-311	28 IR 1837	29 IR 9
345 IAC 5-5	N	05-41	28 IR 3644		355 IAC 4-6-3	A	04-311	28 IR 1837	29 IR 8
345 IAC 5-6	N	05-41	28 IR 3645		355 IAC 4-6-4	R	04-311	28 IR 1838	29 IR 9
345 IAC 5-7	N	05-41	28 IR 3646		355 IAC 4-6-6	R	04-311	28 IR 1838	29 IR 9
345 IAC 6-2	N	04-158	28 IR 1000	28 IR 2353	355 IAC 4-6-10	R	04-311	28 IR 1838	29 IR 9
345 IAC 7-4.5	N	04-248	28 IR 1820	28 IR 3556					
345 IAC 7-5-12	A	04-147	27 IR 4135	28 IR 2687	TITLE 357 INDIANA PESTICIDE REVIEW BOARD				
345 IAC 7-5-15.1	A	04-16	27 IR 2797	28 IR 559	357 IAC 1-6-1	A	04-160	28 IR 253	28 IR 1689
345 IAC 7-5-22	A	04-16	27 IR 2798	28 IR 559	357 IAC 1-6-2	A	04-160	28 IR 254	28 IR 1690
345 IAC 8-2-1.1	A	04-286	28 IR 1821	28 IR 3557	357 IAC 1-6-3	R	04-160	28 IR 257	28 IR 1693
345 IAC 8-2-1.5	A	04-286	28 IR 1823	28 IR 3560	357 IAC 1-6-4	A	04-160	28 IR 256	28 IR 1692
345 IAC 8-2-1.6	N	04-286	28 IR 1824	28 IR 3560	357 IAC 1-6-5	A	04-160	28 IR 256	28 IR 1692
345 IAC 8-2-1.7	A	04-286	28 IR 1824	28 IR 3560	357 IAC 1-6-6	A	04-160	28 IR 256	28 IR 1693
345 IAC 8-2-1.9	A	04-286	28 IR 1825	28 IR 3561	357 IAC 1-6-7	N	04-160	28 IR 257	28 IR 1693
345 IAC 8-2-4	A	04-286	28 IR 1826	28 IR 3562	357 IAC 1-6-8	N	04-160	28 IR 257	28 IR 1693
345 IAC 8-3-1	A	04-286	28 IR 1828	28 IR 3564	357 IAC 1-7-1	A	04-159	28 IR 249	28 IR 1685
345 IAC 8-3-2	A	04-286	28 IR 1829	28 IR 3565	357 IAC 1-7-2	A	04-159	28 IR 250	28 IR 1686
345 IAC 8-3-12	N	04-286	28 IR 1829	28 IR 3565	357 IAC 1-7-3	R	04-159	28 IR 252	28 IR 1689
345 IAC 8-4-1	A	04-286	28 IR 1830	28 IR 3566	357 IAC 1-7-4	A	04-159	28 IR 251	28 IR 1687
345 IAC 9-2-1-1	A	05-70	28 IR 3648		357 IAC 1-7-5	A	04-159	28 IR 252	28 IR 1688
345 IAC 9-12-2	A	05-70	28 IR 3649		357 IAC 1-7-6	A	04-159	28 IR 252	28 IR 1688
345 IAC 9-20-2	A	05-70	28 IR 3650		357 IAC 1-7-7	N	04-159	28 IR 252	28 IR 1688
345 IAC 9-21.5	N	05-70	28 IR 3650		357 IAC 1-7-8	N	04-159	28 IR 252	28 IR 1689
345 IAC 10-2-5	N	04-135	27 IR 4119	28 IR 1473	TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES				
345 IAC 10-2-1-1	A	04-135	27 IR 4119	28 IR 1474	405 IAC 1-1-3-1	N	04-321	28 IR 2196	*NRA (28 IR 3321) 28 IR 3579
	A	05-70	28 IR 3650		405 IAC 1-1-5	A	04-178	28 IR 258	*NRA (28 IR 1497) 28 IR 2129
TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA					405 IAC 1-1.5-1	A	04-142	27 IR 3699	*NRA (28 IR 619) 28 IR 815
355 IAC 2-1-1	A	04-312	28 IR 1838	28 IR 3570					*ERR (28 IR 970)
355 IAC 2-1-6	A	04-312	28 IR 1838	28 IR 3571	405 IAC 1-1.5-2	A	04-178	28 IR 259	*NRA (28 IR 1497) 28 IR 2131
355 IAC 2-2-1	A	04-312	28 IR 1839	28 IR 3571	405 IAC 1-1.6	N	04-142	27 IR 3699	*NRA (28 IR 619) 28 IR 816
355 IAC 2-2-1.5	N	04-312	28 IR 1839	28 IR 3571					*ERR (28 IR 970)
355 IAC 2-2-6	A	04-312	28 IR 1839	28 IR 3571	405 IAC 1-5-1	A	04-219	28 IR 655	*NRA (28 IR 1497) 28 IR 2134
355 IAC 2-2-9	A	04-312	28 IR 1839	28 IR 3571	405 IAC 1-11.5-2	A	05-200	29 IR 637	
355 IAC 2-2-10	A	04-312	28 IR 1839	28 IR 3571	405 IAC 1-12-27	N	05-113	28 IR 3654	
355 IAC 2-2-13	A	04-312	28 IR 1840	28 IR 3572	405 IAC 1-14.5-27	N	05-114	28 IR 3655	
355 IAC 2-2-14	A	04-312	28 IR 1840	28 IR 3572	405 IAC 1-14.6-23	N	05-114	28 IR 3655	
355 IAC 2-2-15	A	04-312	28 IR 1840	28 IR 3572	405 IAC 2-2-3	A	04-319	28 IR 1847	*NRA (28 IR 2752) 29 IR 9
355 IAC 2-2-17	A	04-312	28 IR 1840	28 IR 3572	405 IAC 2-3-10	A	03-263	27 IR 1210	*ARR (27 IR 4024) *NRA (27 IR 4044) 28 IR 178
355 IAC 2-3-4	A	04-312	28 IR 1840	28 IR 3572					*NRA (28 IR 3321) 28 IR 3579
355 IAC 2-3-6	A	04-312	28 IR 1841	28 IR 3573	405 IAC 2-9-5	A	04-319	28 IR 1848	*NRA (28 IR 2752) 29 IR 10
355 IAC 2-3-8	A	04-312	28 IR 1841	28 IR 3573	405 IAC 5-1-5	A	04-178	28 IR 260	*NRA (28 IR 1497) 28 IR 2131
355 IAC 2-3-11	A	04-312	28 IR 1841	28 IR 3573	405 IAC 5-3-13	A	04-178	28 IR 260	*NRA (28 IR 1497) 28 IR 2132
355 IAC 2-3-12	A	04-312	28 IR 1841	28 IR 3573					
355 IAC 2-4-1	A	04-312	28 IR 1842	28 IR 3574					
355 IAC 2-5-1	A	04-312	28 IR 1842	28 IR 3575					
355 IAC 2-5-2	A	04-312	28 IR 1843	28 IR 3575					
355 IAC 2-5-3	A	04-312	28 IR 1844	28 IR 3576					
355 IAC 2-5-4	A	04-312	28 IR 1844	28 IR 3576					
355 IAC 2-5-6	A	04-312	28 IR 1844	28 IR 3576					
355 IAC 2-5-8	A	04-312	28 IR 1844	28 IR 3576					
355 IAC 2-5-12	A	04-312	28 IR 1845	28 IR 3577					
355 IAC 2-5-12.5	A	04-312	28 IR 1845	28 IR 3577					
355 IAC 2-5-13	A	04-312	28 IR 1846	28 IR 3578					
355 IAC 2-5-14	R	04-312	28 IR 1846	28 IR 3578					
355 IAC 2-6-1.5	A	04-312	28 IR 1846	28 IR 3578					
355 IAC 2-6-2	R	04-312	28 IR 1846	28 IR 3578					

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405 IAC 5-5-1	A	05-220	29 IR 640		410 IAC 15-2-3	RA	05-20	28 IR 2458	28 IR 3661
405 IAC 5-9-1	A	04-178	28 IR 261	*NRA (28 IR 1497)	410 IAC 15-2-4	RA	05-20	28 IR 2458	28 IR 3661
				28 IR 2132	410 IAC 15-2-5	RA	05-20	28 IR 2458	28 IR 3661
405 IAC 5-19-1	A	04-178	28 IR 261	*NRA (28 IR 1497)	410 IAC 15-2-6	RA	05-20	28 IR 2458	28 IR 3661
				28 IR 2133	410 IAC 15-2-6-1				*ERR (28 IR 1695)
405 IAC 5-19-3	A	03-207	27 IR 267	*AROC (27 IR 2342)	410 IAC 15-2-7	RA	05-20	28 IR 2458	28 IR 3661
405 IAC 5-19-10	A	04-178	28 IR 262	*NRA (28 IR 1497)	410 IAC 16.2-1.1-19.3	N	04-7	27 IR 2542	28 IR 189
				28 IR 2134	410 IAC 16.2-3.1-2	A	03-297	27 IR 2536	28 IR 182
405 IAC 5-22-8	A	05-200	29 IR 638			A	04-7	27 IR 2542	28 IR 189
405 IAC 5-24-4	A	05-76	28 IR 3653	*NRA (29 IR 575)	410 IAC 16.2-3.1-21				*ERR (28 IR 1695)
405 IAC 5-24-5	A	05-76	28 IR 3653	*NRA (29 IR 575)	410 IAC 16.2-3.1-53	N	04-7	27 IR 2545	28 IR 192
405 IAC 5-26-5	A	04-178	28 IR 262	*NRA (28 IR 1497)	410 IAC 16.2-5-1.1	A	03-297	27 IR 2539	28 IR 185
				28 IR 2134	410 IAC 16.2-5-1.4	A	04-7	27 IR 2547	28 IR 193
405 IAC 6-2-5	A	04-95	27 IR 3210	*NRA (27 IR 4044)	410 IAC 16.2-5-1.5				*ERR (28 IR 1695)
				28 IR 179	410 IAC 16.2-5-1.6				*ERR (28 IR 1695)
405 IAC 6-3-3	A	04-95	27 IR 3210	*NRA (27 IR 4044)	410 IAC 16.2-5-5.1				*ERR (28 IR 1695)
				28 IR 180	410 IAC 16.2-5-13	N	04-7	27 IR 2548	28 IR 194
405 IAC 6-4-2	A	04-95	27 IR 3210	*NRA (27 IR 4044)	410 IAC 21-3-6	R	04-161	28 IR 657	28 IR 2356
				28 IR 180	410 IAC 21-3-8	A	04-161	28 IR 656	28 IR 2355
405 IAC 6-4-3	A	04-95	27 IR 3211	*NRA (27 IR 4044)	410 IAC 21-3-9	A	04-161	28 IR 656	28 IR 2355
				28 IR 180	410 IAC 26	N	05-94	29 IR 85	
405 IAC 6-5-1	A	04-95	27 IR 3211	*NRA (27 IR 4044)	410 IAC 27	N	05-93	29 IR 66	
				28 IR 181					
405 IAC 6-5-2	A	04-95	27 IR 3211	*NRA (27 IR 4044)					
				28 IR 181	TITLE 412 INDIANA HEALTH FACILITIES COUNCIL				
405 IAC 6-5-3	A	04-95	27 IR 3211	*NRA (27 IR 4044)	412 IAC 2-1-2.1	A	05-35	28 IR 3341	
				28 IR 181	412 IAC 2-1-10	A	05-35	28 IR 3341	
405 IAC 6-5-4	A	04-95	27 IR 3212	*NRA (27 IR 4044)	412 IAC 2-1-13	R	05-35	28 IR 3342	
				28 IR 181	412 IAC 2-1-14	A	05-35	28 IR 3342	
405 IAC 6-5-6	A	04-95	27 IR 3212	*NRA (27 IR 4044)					
				28 IR 182	TITLE 414 HOSPITAL COUNCIL				
					414 IAC 1-1-3	N	05-95	29 IR 103	
					414 IAC 1-1-4	N	05-95	29 IR 103	
TITLE 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM					TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION				
407 IAC 2-2-3	A	05-155	28 IR 3656		440 IAC 7.5-1-1	A	04-229	28 IR 657	*NRA (28 IR 1497)
407 IAC 2-3-1	A	05-156	28 IR 3657						28 IR 2356
					440 IAC 7.5-2-1	A	04-229	28 IR 660	*NRA (28 IR 1497)
									28 IR 2359
TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH					440 IAC 7.5-2-8	A	04-229	28 IR 661	*NRA (28 IR 1497)
410 IAC 1-2.4	N	04-100	28 IR 2806						28 IR 2359
410 IAC 1-6	RA	05-20	28 IR 2458	28 IR 3661	440 IAC 7.5-2-12	A	04-229	28 IR 661	*NRA (28 IR 1497)
410 IAC 6-7.2-28				*ERR (28 IR 1695)					28 IR 2360
410 IAC 6-7.2-29				*ERR (28 IR 2391)	440 IAC 7.5-2-13	A	04-229	28 IR 662	*NRA (28 IR 1497)
410 IAC 6-9-3				*ERR (28 IR 1695)					28 IR 2361
410 IAC 6-12-0.5	N	03-276	27 IR 3212	28 IR 818	440 IAC 7.5-3-3	A	04-229	28 IR 663	*NRA (28 IR 1497)
410 IAC 6-12-1	A	03-276	27 IR 3212	28 IR 818					28 IR 2362
410 IAC 6-12-2	R	03-276	27 IR 3216	28 IR 821	440 IAC 7.5-3-4	A	04-229	28 IR 664	*NRA (28 IR 1497)
410 IAC 6-12-3	A	03-276	27 IR 3213	28 IR 818					28 IR 2363
410 IAC 6-12-3.1	N	03-276	27 IR 3213	28 IR 818	440 IAC 7.5-3-7	A	04-229	28 IR 664	*NRA (28 IR 1497)
410 IAC 6-12-3.2	N	03-276	27 IR 3213	28 IR 818					28 IR 2363
410 IAC 6-12-4	A	03-276	27 IR 3213	28 IR 818	440 IAC 7.5-4-4	A	04-229		*NRA (28 IR 1497)
410 IAC 6-12-5	R	03-276	27 IR 3216	28 IR 821					†† 28 IR 2363
410 IAC 6-12-6	R	03-276	27 IR 3216	28 IR 821	440 IAC 7.5-4-7	A	04-229	28 IR 664	*NRA (28 IR 1497)
410 IAC 6-12-7	A	03-276	27 IR 3213	28 IR 818					28 IR 2364
410 IAC 6-12-8	A	03-276	27 IR 3213	28 IR 819	440 IAC 7.5-4-8	A	04-229	28 IR 665	*NRA (28 IR 1497)
410 IAC 6-12-9	A	03-276	27 IR 3214	28 IR 820					28 IR 2364
410 IAC 6-12-10	A	03-276	27 IR 3215	28 IR 820	440 IAC 7.5-5-1	A	04-229	28 IR 665	*NRA (28 IR 1497)
410 IAC 6-12-11	A	03-276	27 IR 3215	28 IR 820					28 IR 2364
410 IAC 6-12-12	A	03-276	27 IR 3215	28 IR 820	440 IAC 7.5-8-1	A	04-229	28 IR 666	*NRA (28 IR 1497)
410 IAC 6-12-13	A	03-276	27 IR 3215	28 IR 820					28 IR 2365
410 IAC 6-12-14	A	03-276	27 IR 3215	28 IR 821	440 IAC 7.5-8-2	A	04-229	28 IR 666	*NRA (28 IR 1497)
410 IAC 6-12-15	R	03-276	27 IR 3216	28 IR 821					28 IR 2365
410 IAC 6-12-17	N	03-276	27 IR 3216	28 IR 821	440 IAC 7.5-8-3	A	04-229	28 IR 666	*NRA (28 IR 1497)
410 IAC 7-20	R	04-60	27 IR 3301	28 IR 906					28 IR 2365
410 IAC 7-21-34				*ERR (28 IR 1695)	440 IAC 7.5-9-1	A	04-229	28 IR 666	*NRA (28 IR 1497)
410 IAC 7-23-1	A	04-62	27 IR 3301	28 IR 908					28 IR 2365
410 IAC 7-24	N	04-60	27 IR 3216	28 IR 822	440 IAC 7.5-9-2	A	04-229	28 IR 666	*NRA (28 IR 1497)
				*ERR (28 IR 1485)					28 IR 2366
410 IAC 15-2.1	RA	05-20	28 IR 2458	28 IR 3661	440 IAC 7.5-9-3	A	04-229	28 IR 667	*NRA (28 IR 1497)
410 IAC 15-2.2	RA	05-20	28 IR 2458	28 IR 3661					28 IR 2366

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440 IAC 7.5-10-1	A	04-229	28 IR 667	*NRA (28 IR 1497) 28 IR 2366	470 IAC 3-1.1-8	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317)
440 IAC 7.5-10-2	A	04-229	28 IR 667	*NRA (28 IR 1497) 28 IR 2366					*ARR (28 IR 2140) *GRAT (28 IR 2205)
440 IAC 7.5-10-3	N	04-229	28 IR 667	*NRA (28 IR 1497) 28 IR 2367	470 IAC 3-1.1-9	R	04-77	27 IR 2857	*AWR (28 IR 2393) *NRA (28 IR 1196)
440 IAC 7.5-11	N	04-229	28 IR 667	*NRA (28 IR 1497) 28 IR 2367					*AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES					470 IAC 3-1.1-10	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140)
460 IAC 1-3.4	N	04-75	28 IR 1002	*NRA (28 IR 1497) *AROC (28 IR 2461)					*GRAT (28 IR 2205) *AWR (28 IR 2393)
460 IAC 1-8-3	A	04-199	28 IR 1007	*NRA (28 IR 1497) 28 IR 2690	470 IAC 3-1.1-12	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140)
460 IAC 1-8-11	N	04-199	28 IR 1007	*NRA (28 IR 1497) 28 IR 2691					*GRAT (28 IR 2205) *AWR (28 IR 2393)
460 IAC 1-8-12	N	04-199	28 IR 1008	*NRA (28 IR 1497) 28 IR 2691	470 IAC 3-1.1-12.5	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140)
460 IAC 1-8-13	N	04-199	28 IR 1008	*NRA (28 IR 1497) 28 IR 2691					*GRAT (28 IR 2205) *AWR (28 IR 2393)
460 IAC 1-10	N	03-231	27 IR 3303	*NRA (28 IR 233) 28 IR 910					*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140)
460 IAC 1-11	N	04-136	28 IR 1004	*NRA (28 IR 1497) 28 IR 2687	470 IAC 3-1.1-13	A	04-77	27 IR 2839	*GRAT (28 IR 2205) *AWR (28 IR 2393)
460 IAC 1.1	N	03-245	27 IR 2799	*AROC (27 IR 3344) *NRA (28 IR 233) *GRAT (28 IR 2204) 28 IR 912					*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140)
460 IAC 2-2.1	N	04-76	27 IR 3701	*NRA (28 IR 233) 28 IR 2368	470 IAC 3-1.1-14	A	04-77	27 IR 2840	*GRAT (28 IR 2205) *AWR (28 IR 2393)
460 IAC 3.5-2-3	N	04-269	28 IR 1303	*AWR (28 IR 1697)					*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205)
TITLE 470 DIVISION OF FAMILY RESOURCES					470 IAC 3-1.1-15	A	04-77	27 IR 2840	*AWR (28 IR 2393) *NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-0.5	A	04-77	27 IR 2837	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)					*ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-1	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.1-16	A	04-77	27 IR 2840	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205)
470 IAC 3-1.1-2	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)					*AWR (28 IR 2393) *NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-4	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.1-20	A	04-77	27 IR 2840	*ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-6	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.1-20.1	N	04-77	27 IR 2840	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205)
470 IAC 3-1.1-7.2	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)					*AWR (28 IR 2393) *NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-7.4	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.1-24	A	04-77	27 IR 2841	*ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
					470 IAC 3-1.1-28	A	04-77	27 IR 2841	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)

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470 IAC 3-1.1-51	N	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.3-6	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.2-2	A	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.3-7	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.2-3	A	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-4.8	N	03-232	27 IR 1626	*AROC (27 IR 2882) *NRA (27 IR 4044) 28 IR 196
470 IAC 3-1.2-3.2	N	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-18	N	03-233	27 IR 1627	*AROC (27 IR 3345) *NRA (28 IR 233) 28 IR 950
470 IAC 3-1.2-4	A	04-77	27 IR 2854	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3.1-1-10	A	05-201	29 IR 104	
470 IAC 3-1.2-5	A	04-77	27 IR 2854	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3.1-1-18	A	05-201	29 IR 104	
470 IAC 3-1.2-6	A	04-77	27 IR 2854	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3.1-1-25	A	05-201	29 IR 104	
470 IAC 3-1.2-7	A	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3.1-1-26	A	05-201	29 IR 104	
470 IAC 3-1.2-8	N	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3.1-3-1	A	05-201	29 IR 105	
470 IAC 3-1.3-1	A	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3.1-4-2	A	05-201	29 IR 106	
470 IAC 3-1.3-2	N	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3.1-7-1	A	05-201	29 IR 106	
470 IAC 3-1.3-3	N	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3.1-7-2	A	05-201	29 IR 107	
470 IAC 3-1.3-4	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3.1-7-3	R	05-201	29 IR 109	
470 IAC 3-1.3-5	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3.1-11-2	A	05-201	29 IR 107	
					470 IAC 3.1-11-4	A	05-201	29 IR 107	
					470 IAC 3.1-12-2	A	05-201	29 IR 108	
					470 IAC 3.1-12-7	A	05-201	29 IR 108	
					470 IAC 3.1-15-10	A	05-201	29 IR 109	
TITLE 511 INDIANA STATE BOARD OF EDUCATION									
					511 IAC 1-2.5-1				*ERR (28 IR 3306) 28 IR 965
					511 IAC 1-3-1	A	04-101	27 IR 3305	*ERR (28 IR 3306)
					511 IAC 1-3-2				*ERR (28 IR 3306)
					511 IAC 1-6-1				*ERR (28 IR 3306)
					511 IAC 1-6-2				*ERR (28 IR 3306)
					511 IAC 1-6-3				*ERR (28 IR 3306)
					511 IAC 1-6-4				*ERR (28 IR 3306)
					511 IAC 1-6-5				*ERR (28 IR 3306)
					511 IAC 1-7-1				*ERR (28 IR 3306)
					511 IAC 1-8-2				*ERR (28 IR 3306)
					511 IAC 1-8-7				*ERR (28 IR 3306)
					511 IAC 1-8-11				*ERR (28 IR 3306)
					511 IAC 1-9	RA	04-47	27 IR 2879	28 IR 323
					511 IAC 4-4-3				*ERR (28 IR 3306)
					511 IAC 5-1-1				*ERR (28 IR 3306)
					511 IAC 5-2-4				*ERR (28 IR 3306)
					511 IAC 5-2-4.5	N	04-214	28 IR 668	28 IR 2692
					511 IAC 5-3-2				*ERR (28 IR 3306)
					511 IAC 6-7-1	RA	04-47	27 IR 2879	28 IR 323
					511 IAC 6-7-2				*ERR (28 IR 3306)
					511 IAC 6-7-6	RA	04-47	27 IR 2879	28 IR 323
					511 IAC 6-7-6.1				*ERR (28 IR 3306)
					511 IAC 6-7-6.5	A	04-36	27 IR 2552	28 IR 959
					511 IAC 6-7.1	N	04-277	28 IR 1303	
					511 IAC 6-7.1-4.5	N	04-276	28 IR 1849	*AWR (28 IR 2992)
					511 IAC 6-9.1	RA	05-15	28 IR 2459	28 IR 3052
					511 IAC 6-10-1				*ERR (28 IR 3306)
					511 IAC 6.1-1-1				*ERR (28 IR 3306)
					511 IAC 6.1-1-2				*ERR (28 IR 3306)
					511 IAC 6.1-1-4				*ERR (28 IR 3306)
					511 IAC 6.1-1-9				*ERR (28 IR 3306)
					511 IAC 6.1-1-13.5				*ERR (28 IR 3306)
					511 IAC 6.1-2-2.5	RA	04-47	27 IR 2879	28 IR 323
					511 IAC 6.1-2-4				*ERR (28 IR 3306)
					511 IAC 6.1-2-5				*ERR (28 IR 3306)

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570 IAC 1-10.1-4	A	05-178	29 IR 124		655 IAC 1-2.1-6.1	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2697
570 IAC 1-10.1-6	A	05-178	29 IR 125		655 IAC 1-2.1-6.2	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2697
570 IAC 1-11-4	A	05-178	29 IR 125		655 IAC 1-2.1-6.3	A	04-138	28 IR 1014	*AROC (28 IR 1073) 28 IR 2697
570 IAC 1-11-8	A	05-178	29 IR 125		655 IAC 1-2.1-6.4	A	04-138	28 IR 1014	*AROC (28 IR 1073) 28 IR 2698
570 IAC 1-12-1	A	05-178	29 IR 125		655 IAC 1-2.1-7.1	N	04-138	28 IR 1014	*AROC (28 IR 1073) 28 IR 2698
570 IAC 1-12-2	A	05-178	29 IR 126		655 IAC 1-2.1-8	A	04-138	28 IR 1016	*AROC (28 IR 1073) 28 IR 2700
570 IAC 1-13-1	A	05-178	29 IR 126		655 IAC 1-2.1-9	A	04-138	28 IR 1016	*AROC (28 IR 1073) 28 IR 2700
570 IAC 1-13-2	A	05-178	29 IR 126		655 IAC 1-2.1-10	A	04-138	28 IR 1016	*AROC (28 IR 1073) 28 IR 2700
570 IAC 1-13-3	A	05-178	29 IR 127		655 IAC 1-2.1-11	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
570 IAC 1-13-4	A	05-178	29 IR 127		655 IAC 1-2.1-12	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
570 IAC 1-14-2	A	05-178	29 IR 127		655 IAC 1-2.1-13	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
570 IAC 1-14-3	A	05-178	29 IR 128		655 IAC 1-2.1-14	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
570 IAC 1-14-4	A	05-178	29 IR 128		655 IAC 1-2.1-15	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
570 IAC 1-14-10	A	05-178	29 IR 128		655 IAC 1-2.1-20	A	04-138	28 IR 1018	*AROC (28 IR 1073) 28 IR 2702
570 IAC 1-14-11	A	05-178	29 IR 128		655 IAC 1-2.1-22	A	04-138	28 IR 1018	*AROC (28 IR 1073) 28 IR 2702
TITLE 575 STATE SCHOOL BUS COMMITTEE					655 IAC 1-2.1-23	A	04-138	28 IR 1018	*AROC (28 IR 1073) 28 IR 2702
575 IAC 1-1-1				*ERR (28 IR 3583)	655 IAC 1-2.1-23.1	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2702
575 IAC 1-1-5				*ERR (28 IR 3583)	655 IAC 1-2.1-24	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
575 IAC 1-5.5-1				*ERR (28 IR 3583)	655 IAC 1-2.1-24.1	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT					655 IAC 1-2.1-24.2	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
646 IAC 2-1-2	R	05-228	29 IR 649		655 IAC 1-2.1-24.3	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
646 IAC 2-1-4	A	05-228	29 IR 643		655 IAC 1-2.1-75	A	04-138	28 IR 1020	*AROC (28 IR 1073) 28 IR 2704
646 IAC 2-1-9	R	05-228	29 IR 649		655 IAC 1-2.1-75.2	A	04-138	28 IR 1020	*AROC (28 IR 1073) 28 IR 2704
646 IAC 2-1-13	A	05-228	29 IR 644		655 IAC 1-2.1-75.3	A	04-138	28 IR 1020	*AROC (28 IR 1073) 28 IR 2704
646 IAC 2-1-15	R	05-228	29 IR 649		655 IAC 1-2.1-75.4	A	04-138	28 IR 1021	*AROC (28 IR 1073) 28 IR 2705
646 IAC 2-1-16	R	05-228	29 IR 649		655 IAC 1-2.1-75.5	A	04-138	28 IR 1021	*AROC (28 IR 1073) 28 IR 2705
646 IAC 2-1-17	R	05-228	29 IR 649		655 IAC 1-2.1-76.1	A	04-138	28 IR 1022	*AROC (28 IR 1073) 28 IR 2706
646 IAC 2-1-19	A	05-228	29 IR 644		655 IAC 1-2.1-76.2	R	04-138	28 IR 1029	*AROC (28 IR 1073) 28 IR 2712
646 IAC 2-1-20	A	05-228	29 IR 644		655 IAC 1-2.1-76.3	R	04-138	28 IR 1029	*AROC (28 IR 1073) 28 IR 2712
646 IAC 2-1-21	R	05-228	29 IR 649		655 IAC 1-2.1-96	N	04-138	28 IR 1022	*AROC (28 IR 1073) 28 IR 2706
646 IAC 2-1-23	R	05-228	29 IR 649		655 IAC 1-2.1-97	N	04-138	28 IR 1022	*AROC (28 IR 1073) 28 IR 2706
646 IAC 2-1-24	A	05-228	29 IR 644		655 IAC 1-2.1-98	N	04-138	28 IR 1023	*AROC (28 IR 1073) 28 IR 2706
646 IAC 2-1-27	A	05-228	29 IR 645		655 IAC 1-2.1-99	N	04-138	28 IR 1023	*AROC (28 IR 1073) 28 IR 2707
646 IAC 2-2-2	A	05-228	29 IR 645		655 IAC 1-2.1-100	N	04-138	28 IR 1023	*AROC (28 IR 1073) 28 IR 2707
646 IAC 2-3	R	05-228	29 IR 649		655 IAC 1-2.1-101	N	04-138	28 IR 1024	*AROC (28 IR 1073) 28 IR 2708
646 IAC 2-4	R	05-228	29 IR 649						
646 IAC 2-5-1	R	05-228	29 IR 649						
646 IAC 2-5-2	A	05-228	29 IR 646						
646 IAC 2-6-1	A	05-228	29 IR 647						
646 IAC 2-7-2	R	05-228	29 IR 649						
646 IAC 2-7-3	A	05-228	29 IR 647						
646 IAC 2-7-4	A	05-228	29 IR 647						
646 IAC 2-8-1	A	05-228	29 IR 648						
646 IAC 2-9-1	A	05-228	29 IR 648						
646 IAC 3-1-7	A	05-225	29 IR 641						
646 IAC 3-1-12	N	03-317	27 IR 2858	28 IR 560					
646 IAC 3-1-13	N	03-317	27 IR 2858	28 IR 561					
646 IAC 3-4-11	N	03-317	27 IR 2858	28 IR 561					
646 IAC 3-4-12	N	05-225	29 IR 642						
646 IAC 3-5-1	A	03-317	27 IR 2859	28 IR 561					
646 IAC 3-10-9	A	05-128	28 IR 3343						
646 IAC 3-10-13	A	05-128	28 IR 3343						
TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION									
655 IAC 1-1-5.1	A	04-138	28 IR 1009	*AROC (28 IR 1073) 28 IR 2693					
	A	04-297	28 IR 2415	*AROC (28 IR 3354) 29 IR 477					
655 IAC 1-2.1-3	A	04-138	28 IR 1012	*AROC (28 IR 1073) 28 IR 2696					
655 IAC 1-2.1-4	A	04-138	28 IR 1012	*AROC (28 IR 1073) 28 IR 2696					
655 IAC 1-2.1-5	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2696					
655 IAC 1-2.1-6	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2697					

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655 IAC 1-2.1-102	N	04-138	28 IR 1024	*AROC (28 IR 1073) 28 IR 2708	675 IAC 13-2.4-96.5	N	04-216	28 IR 1533	*AROC (29 IR 146)
655 IAC 1-2.1-103	N	04-138	28 IR 1025	*AROC (28 IR 1073) 28 IR 2709	675 IAC 13-2.4-105.6	N	04-216	28 IR 1533	*AROC (29 IR 146) 29 IR 500
655 IAC 1-2.1-104	N	04-138	28 IR 1025	*AROC (28 IR 1073) 28 IR 2709	675 IAC 13-2.4-107.3	N	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500
655 IAC 1-2.1-105	N	04-138	28 IR 1026	*AROC (28 IR 1073) 28 IR 2710	675 IAC 13-2.4-107.5	N	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500
655 IAC 1-2.1-106	N	04-138	28 IR 1026	*AROC (28 IR 1073) 28 IR 2710	675 IAC 13-2.4-107.6	N	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500
655 IAC 1-2.1-107	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2710	675 IAC 13-2.4-118	A	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500
655 IAC 1-2.1-108	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2711	675 IAC 13-2.4-118.4	N	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500
655 IAC 1-2.1-109	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2711	675 IAC 13-2.4-121.5	N	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500
655 IAC 1-2.1-110	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2711	675 IAC 13-2.4-122	A	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500
655 IAC 1-2.1-111	N	04-297	28 IR 2419	*AROC (28 IR 3354) 29 IR 481	675 IAC 13-2.4-122.5	N	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501
655 IAC 1-2.1-112	N	04-297	28 IR 2423	*AROC (28 IR 3354) 29 IR 485	675 IAC 13-2.4-131		02-115		*ERR (28 IR 1695)
655 IAC 1-2.1-113	N	04-297	28 IR 2423	*AROC (28 IR 3354) 29 IR 485	675 IAC 13-2.4-132	A	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501
655 IAC 1-2.1-114	N	04-297	28 IR 2424	*AROC (28 IR 3354) 29 IR 485	675 IAC 13-2.4-132.3	N	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501
655 IAC 1-2.1-115	N	04-297	28 IR 2425	*AROC (28 IR 3354) 29 IR 486	675 IAC 13-2.4-132.5	N	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501
655 IAC 1-3-8	R	03-186	27 IR 941	*AROC (27 IR 1652)	675 IAC 13-2.4-133.5	N	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501
655 IAC 1-4-2	A	04-138	28 IR 1028	*AROC (28 IR 1073) 28 IR 2712	675 IAC 13-2.4-134.5	N	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501
					675 IAC 13-2.4-143	A	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501
TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION					675 IAC 13-2.4-174		02-115		*ERR (28 IR 1695)
675 IAC 13-2.4-3		02-115		*ERR (28 IR 1695)	675 IAC 13-2.4-180.5	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502
675 IAC 13-2.4-10	A	04-216	28 IR 1529	*AROC (29 IR 146) 29 IR 496	675 IAC 13-2.4-201.5	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502
675 IAC 13-2.4-15		02-115		*ERR (28 IR 1695)	675 IAC 13-2.4-201.7	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502
675 IAC 13-2.4-19	A	04-216	28 IR 1529	*AROC (29 IR 146) 29 IR 496	675 IAC 13-2.4-210.3	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502
675 IAC 13-2.4-20	A	04-216	28 IR 1530	*AROC (29 IR 146) 29 IR 496	675 IAC 13-2.4-210.5	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502
675 IAC 13-2.4-22	A	04-216	28 IR 1530	*AROC (29 IR 146) 29 IR 496	675 IAC 13-2.4-213.3	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502
675 IAC 13-2.4-24.3	N	04-216	28 IR 1530	*AROC (29 IR 146) 29 IR 496	675 IAC 13-2.4-213.5	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502
675 IAC 13-2.4-32.5	N	04-216	28 IR 1530	*AROC (29 IR 146) 29 IR 497	675 IAC 13-2.4-213.7	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 503
675 IAC 13-2.4-40.5	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 13-2.4-214.2	N	04-216	28 IR 1537	*AROC (29 IR 146) 29 IR 503
675 IAC 13-2.4-40.6	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 13-2.4-214.4	N	04-216	28 IR 1537	*AROC (29 IR 146) 29 IR 503
675 IAC 13-2.4-41.5	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 13-2.4-214.6	N	04-216	28 IR 1537	*AROC (29 IR 146) 29 IR 503
675 IAC 13-2.4-42.7	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 13-2.4-214.7	N	04-216	28 IR 1537	*AROC (29 IR 146) 29 IR 503
675 IAC 13-2.4-43.2	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 13-2.4-222		02-115		*ERR (28 IR 1695)
675 IAC 13-2.4-43.6	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 13-2.4-228.5	N	04-216	28 IR 1538	*AROC (29 IR 146) 29 IR 504
675 IAC 13-2.4-47	A	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 14-4.2	R	04-194	28 IR 312	28 IR 3304
675 IAC 13-2.4-55	A	04-216	28 IR 1533	*AROC (29 IR 146) 29 IR 499	675 IAC 14-4.2-3				*ERR (28 IR 970)
675 IAC 13-2.4-55.5	N	04-216	28 IR 1533	*AROC (29 IR 146) 29 IR 499	675 IAC 14-4.2-19.5				*ERR (28 IR 970)
675 IAC 13-2.4-56.5	N	04-216	28 IR 1533	*AROC (29 IR 146) 29 IR 499	675 IAC 14-4.2-20.5				*ERR (28 IR 970)
					675 IAC 14-4.2-21				*ERR (28 IR 970)
					675 IAC 14-4.2-26.5				*ERR (28 IR 970)
					675 IAC 14-4.2-29				*ERR (28 IR 970)
675 IAC 13-2.4-68		02-115		*ERR (28 IR 1695)	675 IAC 14-4.2-30	A	04-8	27 IR 2333	28 IR 562
					675 IAC 14-4.2-53.7				*ERR (28 IR 970)

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675 IAC 22-2.2-378.5	R	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	TITLE 710 SECURITIES DIVISION				
675 IAC 22-2.2-412.5	R	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	710 IAC 1-14-6	A	05-46	28 IR 3008	*CPH (28 IR 3322)
675 IAC 22-2.2-437.5	R	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	710 IAC 1-22	N	05-81	28 IR 3009	*CPH (28 IR 3322)
675 IAC 22-2.2-437.7	R	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	TITLE 760 DEPARTMENT OF INSURANCE				
675 IAC 22-2.2-443.5	R	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-21-2	A	04-140	28 IR 1311	28 IR 2375
675 IAC 22-2.2-511.1	R	04-56	27 IR 2864	*CPH (28 IR 982)	760 IAC 1-21-3	A	04-140	28 IR 1311	28 IR 2375
675 IAC 22-2.2-515.1	R	04-56	27 IR 2864	*CPH (28 IR 982)	760 IAC 1-21-4	A	04-140	28 IR 1311	28 IR 2375
675 IAC 22-2.2-540	R	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-21-5	A	04-140	28 IR 1311	28 IR 2375
675 IAC 22-2.3-29.5	N	04-56	27 IR 2860	*CPH (28 IR 982) 28 IR 2369	760 IAC 1-21-8	A	04-140	28 IR 1312	28 IR 2376
675 IAC 22-2.3-35.5	N	04-56	27 IR 2860	*CPH (28 IR 982) 28 IR 2370	760 IAC 1-21-10	N	04-140	28 IR 1313	28 IR 2376
675 IAC 22-2.3-36	A	04-56	27 IR 2860	*CPH (28 IR 982) 28 IR 2370	760 IAC 1-21-11	N	04-140	28 IR 1313	28 IR 2376
675 IAC 22-2.3-36.3	N	04-56	27 IR 2861	*CPH (28 IR 982) 28 IR 2370	760 IAC 1-50-3	A	04-139	27 IR 4136	28 IR 1482
675 IAC 22-2.3-36.4	N	04-56	27 IR 2861	*CPH (28 IR 982) 28 IR 2371	760 IAC 1-50-4	A	04-139	27 IR 4136	28 IR 1482
675 IAC 22-2.3-36.6	N	04-56	27 IR 2863	*CPH (28 IR 982) 28 IR 2372	760 IAC 1-50-5	A	04-139	27 IR 4137	28 IR 1483
675 IAC 22-2.3-36.8	N	04-56	27 IR 2863	*CPH (28 IR 982) 28 IR 2373	760 IAC 1-60-1	RA	04-143	27 IR 3706	28 IR 1072
675 IAC 22-2.3-140.5	N	04-56	27 IR 2863	*CPH (28 IR 982) 28 IR 2373	760 IAC 1-60-2	RA	04-143	27 IR 3706	28 IR 1072
675 IAC 22-2.3-147.5	N	04-56	27 IR 2863	*CPH (28 IR 982) 28 IR 2373	760 IAC 1-60-4	RA	04-143	27 IR 3706	28 IR 1072
675 IAC 22-2.3-147.6	N	04-56	27 IR 2863	*CPH (28 IR 982) 28 IR 2373	760 IAC 1-68-1	A	05-75	29 IR 129	
675 IAC 22-2.3-148	A	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-68-2	A	05-75	29 IR 130	
675 IAC 22-2.3-148.5	N	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-68-4	A	05-75	29 IR 132	
675 IAC 22-2.3-237.5	N	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-68-6	A	05-75	29 IR 133	
675 IAC 22-2.3-298.5	N	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-68-8	A	05-75	29 IR 134	
675 IAC 22-2.3-304.5	N	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-68-9	A	05-75	29 IR 134	
675 IAC 25-1-3		02-118		*ERR (28 IR 1696)	760 IAC 1-68-10	A	05-75	29 IR 134	
675 IAC 25-1-7.2	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-70	N	04-39	27 IR 2560	
675 IAC 25-1-7.4	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-71	N	05-26	28 IR 314	28 IR 1480
675 IAC 25-1-7.6	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-71	N	05-26	28 IR 2456	*AROC (28 IR 2814)
675 IAC 25-1-9.1	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-72	N	05-134	28 IR 3044	29 IR 547
675 IAC 25-1-9.3	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-72	N	05-134	29 IR 649	
675 IAC 25-1-9.5	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 2-1-1	A	03-303	27 IR 3306	28 IR 563
675 IAC 25-1-9.7	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 2-1-1	N	03-303	27 IR 3306	28 IR 563
675 IAC 25-1-9.9	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 2-2-1.5	N	03-303	27 IR 3306	28 IR 563
675 IAC 26	N	04-196	28 IR 1031	*CPH (28 IR 1498) *AROC (28 IR 2461) *ARR (29 IR 31) 29 IR 489	760 IAC 2-2-3.1	N	03-303	27 IR 3307	28 IR 563
675 IAC 27	N	04-275	28 IR 1538	*AROC (29 IR 145) 29 IR 504	760 IAC 2-2-3.2	N	03-303	27 IR 3307	28 IR 563
					760 IAC 2-2-3.3	N	03-303	27 IR 3307	28 IR 564
					760 IAC 2-2-3.4	N	03-303	27 IR 3307	28 IR 564
					760 IAC 2-2-3.5	N	03-303	27 IR 3307	28 IR 564
					760 IAC 2-2-3.6	N	03-303	27 IR 3307	28 IR 564
					760 IAC 2-2-3.7	N	03-303	27 IR 3307	28 IR 564
					760 IAC 2-2-3.8	N	03-303	27 IR 3308	28 IR 565
					760 IAC 2-2-8	A	03-303	27 IR 3308	28 IR 565
					760 IAC 2-3-1	A	03-303	27 IR 3308	28 IR 565
					760 IAC 2-3-2	A	03-303	27 IR 3308	28 IR 565
					760 IAC 2-3-4	A	03-303	27 IR 3309	28 IR 566
					760 IAC 2-3-6	A	03-303	27 IR 3310	28 IR 567
					760 IAC 2-3-7	N	03-303	27 IR 3310	28 IR 567
					760 IAC 2-3-8	N	03-303	27 IR 3311	28 IR 567
					760 IAC 2-4-1	A	03-303	27 IR 3311	28 IR 568
					760 IAC 2-4-2	N	03-303	27 IR 3312	28 IR 569
					760 IAC 2-7-1	A	03-303	27 IR 3313	*ERR (28 IR 609)
					760 IAC 2-8-1	A	03-303	27 IR 3314	28 IR 570
					760 IAC 2-8-2	A	03-303	27 IR 3314	28 IR 570
					760 IAC 2-8-3	A	03-303	27 IR 3314	28 IR 571
					760 IAC 2-8-4	A	03-303	27 IR 3315	28 IR 571
					760 IAC 2-8-6	N	03-303	27 IR 3316	28 IR 572
					760 IAC 2-9-1	A	03-303	27 IR 3316	28 IR 572
					760 IAC 2-10-1	A	03-303	27 IR 3316	28 IR 573
					760 IAC 2-13-1	A	03-303	27 IR 3317	28 IR 573
					760 IAC 2-15-1	A	03-303	27 IR 3317	28 IR 574
					760 IAC 2-15.5	N	03-303	27 IR 3319	*ERR (28 IR 609)
					760 IAC 2-16-1	A	03-303	27 IR 3320	28 IR 575
					760 IAC 2-16.1	N	03-303	27 IR 3320	28 IR 576
					760 IAC 2-17-1	A	03-303	27 IR 3323	28 IR 576
					760 IAC 2-18-1	A	03-303	27 IR 3325	28 IR 580
					760 IAC 2-19-2	A	03-303	27 IR 3325	28 IR 582
					760 IAC 2-19.5	N	03-303	27 IR 3325	28 IR 582
					760 IAC 2-20-10	A	03-303	27 IR 3329	28 IR 585
TITLE 685 REGULATED AMUSEMENT DEVICE SAFETY BOARD									
685 IAC 1	RA	04-124	27 IR 3343	28 IR 1072					

Rules Affected by Volumes 28 and 29

760 IAC 2-20-31.1	A	03-303	27 IR 3329	28 IR 586	808 IAC 2-12-7	N	03-227	27 IR 2568	*ARR (28 IR 215)
760 IAC 2-20-34	A	03-303	27 IR 3329	28 IR 586					28 IR 202
760 IAC 2-20-35	A	03-303	27 IR 3332	28 IR 589	808 IAC 2-12-8	N	03-227	27 IR 2568	*ARR (28 IR 215)
760 IAC 2-20-36.1	A	03-303	27 IR 3332	28 IR 589	808 IAC 2-18-1	A	03-226	27 IR 2565	28 IR 199
760 IAC 2-20-36.2	A	03-303	27 IR 3333	28 IR 590	808 IAC 2-22-1	A	03-226	27 IR 2565	28 IR 199
760 IAC 2-20-37.2	A	03-303	27 IR 3334	28 IR 590					
760 IAC 2-20-37.3	N	03-303	27 IR 3334	28 IR 590	TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS				
760 IAC 2-20-38.1	A	03-303	27 IR 3334	28 IR 590	820 IAC 2-2-2	R	05-137	29 IR 656	
760 IAC 2-20-42	A	03-303	27 IR 3335	28 IR 591	820 IAC 4-1-7	A	05-68	28 IR 3045	*AWR (28 IR 3584)
760 IAC 3-1-1	A	05-5	28 IR 2426		820 IAC 4-1-9	A	05-68	28 IR 3045	*AWR (28 IR 3584)
			28 IR 3013	29 IR 517	820 IAC 4-1-11	A	05-68	28 IR 3045	*AWR (28 IR 3584)
760 IAC 3-2-2.5	A	05-5	28 IR 2426		820 IAC 4-1-12	A	05-68	28 IR 3045	*AWR (28 IR 3584)
			28 IR 3013	29 IR 517	820 IAC 4-3-1	A	04-254	28 IR 1059	28 IR 2382
760 IAC 3-2-6.1	A	05-5	28 IR 2426		820 IAC 4-4-8	A	05-68	28 IR 3046	*AWR (28 IR 3584)
			28 IR 3013	29 IR 517	820 IAC 4-4-8.1	N	05-68	28 IR 3046	*AWR (28 IR 3584)
760 IAC 3-2-6.2	A	05-5	28 IR 2426		820 IAC 5-1-20	A	05-137	29 IR 654	
			28 IR 3013	29 IR 517	820 IAC 6-1-2	A	05-137	29 IR 654	
760 IAC 3-2-7	A	05-5	28 IR 2426		820 IAC 6-1-5	A	05-137	29 IR 655	
			28 IR 3014	29 IR 517	820 IAC 7	N	05-137	29 IR 655	
760 IAC 3-4-1	A	05-5	28 IR 2427		TITLE 828 STATE BOARD OF DENTISTRY				
			28 IR 3014	29 IR 518	828 IAC 0.5-2-3	A	04-233	28 IR 670	*AROC (28 IR 1073)
760 IAC 3-5-1	A	05-5	28 IR 2427						28 IR 2713
			28 IR 3014	29 IR 518	828 IAC 1-5-6	N	04-189	28 IR 669	28 IR 2383
760 IAC 3-6-1	A	05-5	28 IR 2428		828 IAC 5	N	04-233	28 IR 671	*AROC (28 IR 1073)
			28 IR 3016	29 IR 519					28 IR 2713
760 IAC 3-7-1	A	05-5	28 IR 2432		TITLE 830 INDIANA DIETITIANS CERTIFICATION BOARD				
			28 IR 3019	29 IR 523	830 IAC 1-1	RA	04-6	27 IR 2340	28 IR 325
760 IAC 3-8-1	A	05-5	28 IR 2434		830 IAC 1-2-6	RA	05-11	28 IR 2813	28 IR 3662
			28 IR 3021	29 IR 525					
760 IAC 3-9-1	A	05-5	28 IR 2437		TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS				
			28 IR 3024	29 IR 528	840 IAC 2-1	RA	05-12	28 IR 2459	28 IR 3353
760 IAC 3-9-2	A	05-5	28 IR 2437		TITLE 844 MEDICAL LICENSING BOARD OF INDIANA				
			28 IR 3024	29 IR 528	844 IAC 5-5	N	05-91	28 IR 3344	*ARR (29 IR 549)
760 IAC 3-11-1	A	05-5	28 IR 2439		844 IAC 6-1-2	A	03-262	27 IR 1284	28 IR 209
			28 IR 3026	29 IR 530	844 IAC 6-1-4	A	03-261	27 IR 1635	*CPH (27 IR 2300)
				29 IR 530					28 IR 203
				29 IR 530	844 IAC 6-3-1	A	03-261	27 IR 1636	*CPH (27 IR 2300)
760 IAC 3-12-1	A	05-5	28 IR 2444						28 IR 203
			28 IR 3031	29 IR 534	844 IAC 6-3-2	A	03-261	27 IR 1636	*CPH (27 IR 2300)
760 IAC 3-14-1	A	05-5	28 IR 2445						28 IR 204
			28 IR 3032	29 IR 535	844 IAC 6-3-4	A	03-261	27 IR 1637	*CPH (27 IR 2300)
760 IAC 3-15-1	A	05-5	28 IR 2453						28 IR 204
			28 IR 3040	29 IR 544	844 IAC 6-3-5	A	03-261	27 IR 1637	*CPH (27 IR 2300)
760 IAC 3-18-1	A	05-5	28 IR 2455						28 IR 205
			28 IR 3043	29 IR 546	844 IAC 6-3-6	N	03-261	27 IR 1638	*CPH (27 IR 2300)
				29 IR 546					28 IR 205
				29 IR 546	844 IAC 6-4-3	A	03-261	27 IR 1638	*CPH (27 IR 2300)
				29 IR 546					28 IR 206
				29 IR 546	844 IAC 6-6-1	R	03-261	27 IR 1642	*CPH (27 IR 2300)
				29 IR 546					28 IR 209
				29 IR 546	844 IAC 6-6-2	R	03-261	27 IR 1642	*CPH (27 IR 2300)
				29 IR 546					28 IR 209
				29 IR 546	844 IAC 6-6-3	A	03-261	27 IR 1638	*CPH (27 IR 2300)
				29 IR 546					28 IR 206
				29 IR 546	844 IAC 6-6-4	A	03-261	27 IR 1639	*CPH (27 IR 2300)
				29 IR 546					28 IR 206
				29 IR 546	844 IAC 6-7-2	A	03-261	27 IR 1639	*CPH (27 IR 2300)
				29 IR 546					28 IR 207
				29 IR 546	844 IAC 10-4-1	A	03-329	27 IR 2568	28 IR 211
				29 IR 546	844 IAC 12-5-4	A	04-17	28 IR 316	28 IR 1693
				29 IR 546	TITLE 845 BOARD OF PODIATRIC MEDICINE				
				29 IR 546	845 IAC 1-5-3	A	04-134	28 IR 317	28 IR 2716
				29 IR 546					
TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS									
804 IAC 1.1-1-1	A	04-156	28 IR 1054	28 IR 2377					
804 IAC 1.1-8	N	04-156	28 IR 1055	28 IR 2378					
TITLE 808 STATE BOXING COMMISSION									
808 IAC 1-3-6	A	03-226	27 IR 2563	28 IR 198					
808 IAC 1-5-1	A	03-226	27 IR 2563	28 IR 198					
808 IAC 1-5-2	A	03-226	27 IR 2563	28 IR 198					
808 IAC 2-1-5	A	03-226	27 IR 2564	28 IR 198	844 IAC 6-6-1	R	03-261	27 IR 1642	*CPH (27 IR 2300)
808 IAC 2-1-12	A	03-226	27 IR 2564	28 IR 199					28 IR 209
808 IAC 2-7-14	A	03-226	27 IR 2564	28 IR 199	844 IAC 6-6-2	R	03-261	27 IR 1642	*CPH (27 IR 2300)
808 IAC 2-8-7	R	03-226	27 IR 2566	28 IR 200					28 IR 209
808 IAC 2-9-5	A	03-226	27 IR 2564	28 IR 199	844 IAC 6-6-3	A	03-261	27 IR 1638	*CPH (27 IR 2300)
808 IAC 2-12-0.5	N	03-227	27 IR 2566	*ARR (28 IR 215)					28 IR 206
				28 IR 201	844 IAC 6-6-4	A	03-261	27 IR 1639	*CPH (27 IR 2300)
808 IAC 2-12-2	N	03-227	27 IR 2567	*ARR (28 IR 215)					28 IR 206
				28 IR 201	844 IAC 6-7-2	A	03-261	27 IR 1639	*CPH (27 IR 2300)
808 IAC 2-12-3	N	03-227	27 IR 2567	*ARR (28 IR 215)					28 IR 207
				28 IR 201	844 IAC 10-4-1	A	03-329	27 IR 2568	28 IR 211
808 IAC 2-12-4	N	03-227	27 IR 2567	*ARR (28 IR 215)	844 IAC 12-5-4	A	04-17	28 IR 316	28 IR 1693
				28 IR 202	TITLE 845 BOARD OF PODIATRIC MEDICINE				
808 IAC 2-12-5	N	03-227	27 IR 2567	*ARR (28 IR 215)	845 IAC 1-5-3	A	04-134	28 IR 317	28 IR 2716
				28 IR 202					
808 IAC 2-12-6	N	03-227	27 IR 2567	*ARR (28 IR 215)					
				28 IR 202					

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TITLE 848 INDIANA STATE BOARD OF NURSING

848 IAC 1-1-6	A	04-97	28 IR 674	28 IR 2383
848 IAC 1-1-7	A	04-97	28 IR 675	28 IR 2384
848 IAC 1-1-2.1	A	04-65	27 IR 2865	28 IR 593
848 IAC 1-2-1	A	04-65	27 IR 2866	28 IR 594
848 IAC 1-2-5	A	04-65	27 IR 2866	28 IR 594
848 IAC 1-2-6	A	04-65	27 IR 2867	28 IR 595
848 IAC 1-2-7	A	04-65	27 IR 2868	28 IR 596
848 IAC 1-2-8	A	04-65	27 IR 2868	28 IR 596
848 IAC 1-2-8.5	N	04-65	27 IR 2868	28 IR 596
848 IAC 1-2-9	A	04-65	27 IR 2869	28 IR 597
848 IAC 1-2-10	A	04-65	27 IR 2869	28 IR 597
848 IAC 1-2-12	A	04-65	27 IR 2870	28 IR 598
848 IAC 1-2-13	A	04-65	27 IR 2870	28 IR 598
848 IAC 1-2-14	A	04-65	27 IR 2870	28 IR 599
848 IAC 1-2-16	A	04-65	27 IR 2871	28 IR 599
848 IAC 1-2-17	A	04-65	27 IR 2872	28 IR 600
848 IAC 1-2-18	A	04-65	27 IR 2872	28 IR 600
848 IAC 1-2-19	A	04-65	27 IR 2873	28 IR 601
848 IAC 1-2-20	A	04-65	27 IR 2873	28 IR 601
848 IAC 1-2-21	A	04-65	27 IR 2873	28 IR 602
848 IAC 1-2-22	A	04-65	27 IR 2874	28 IR 602
848 IAC 1-2-23	A	04-65	27 IR 2874	28 IR 602
848 IAC 1-2-24	A	04-65	27 IR 2874	28 IR 603
848 IAC 6	R	04-97	28 IR 675	28 IR 2385
848 IAC 7	N	05-2	29 IR 135	

TITLE 852 INDIANA OPTOMETRY BOARD

852 IAC 1-12-1	A	05-184	29 IR 657	
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TITLE 856 INDIANA BOARD OF PHARMACY

856 IAC 1-30-2	A	04-173	28 IR 317	28 IR 2385
856 IAC 1-30-3	A	04-173	28 IR 318	28 IR 2385
856 IAC 1-30-4.1	N	04-173	28 IR 318	28 IR 2385
856 IAC 1-30-4.2	N	04-173	28 IR 318	28 IR 2386
856 IAC 1-30-4.3	N	04-173	28 IR 318	28 IR 2386
856 IAC 1-30-4.4	N	04-173	28 IR 318	28 IR 2386
856 IAC 1-30-4.5	N	04-173	28 IR 318	28 IR 2386
856 IAC 1-30-4.6	N	04-173	28 IR 318	28 IR 2386
856 IAC 1-30-6	A	04-173	28 IR 319	28 IR 2386
856 IAC 1-30-7	A	04-173	28 IR 319	28 IR 2386
856 IAC 1-30-8	A	04-173	28 IR 319	28 IR 2387
856 IAC 1-30-9	A	04-173	28 IR 320	28 IR 2388
856 IAC 1-30-14	A	04-173	28 IR 320	28 IR 2388
856 IAC 1-30-17	A	04-173	28 IR 321	28 IR 2389
856 IAC 1-30-18	A	04-173	28 IR 321	28 IR 2389
856 IAC 1-33-1	A	03-326	27 IR 2073	27 IR 3073
856 IAC 1-37	N	05-42	28 IR 3047	
856 IAC 1-38	N	05-138	29 IR 659	
856 IAC 1-39	N	05-139	29 IR 139	
856 IAC 1-40	N	05-140	29 IR 142	
856 IAC 3-1-2	N	05-102	28 IR 3346	
856 IAC 3-1-3	N	05-102	28 IR 3346	
856 IAC 3-2-1	R	05-102	28 IR 3348	
856 IAC 3-2-3	A	05-102	28 IR 3346	
856 IAC 3-2-7	R	05-102	28 IR 3348	
856 IAC 3-2-8	R	05-102	28 IR 3348	
856 IAC 3-3	N	05-102	28 IR 3346	
856 IAC 3-4	N	05-102	28 IR 3347	
856 IAC 3-5	N	05-102	28 IR 3347	
856 IAC 3-6	N	05-102	28 IR 3347	
856 IAC 3-7	N	05-102	28 IR 3348	

TITLE 857 INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE

857 IAC 1-2-3	A	05-43	28 IR 3048	
857 IAC 1-3-2	A	05-43	28 IR 3049	
857 IAC 1-3-3	A	05-43	28 IR 3049	

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

864 IAC 1.1-2-4	A	03-301	27 IR 2569	28 IR 603
864 IAC 1.1-4-1-9	A	03-301		†28 IR 603
864 IAC 1.1-12-1	A	03-301	27 IR 2569	28 IR 604
864 IAC 1.1-12-2	N	03-301	27 IR 2570	28 IR 604

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

865 IAC 1-1-1	A	05-82	29 IR 660	
865 IAC 1-1-2	A	05-82	29 IR 661	
865 IAC 1-2-1	A	05-82	29 IR 661	
865 IAC 1-2-2	A	05-82	29 IR 663	
865 IAC 1-3-2	A	05-82	29 IR 663	
865 IAC 1-4-3	A	05-82	29 IR 663	
865 IAC 1-4-6	A	05-82	29 IR 664	
865 IAC 1-4-7	A	05-82	29 IR 664	
865 IAC 1-4-8	A	05-82	29 IR 664	
865 IAC 1-4-9	R	05-82	29 IR 687	
865 IAC 1-5-1	A	05-82	29 IR 665	
865 IAC 1-5-2	A	05-82	29 IR 665	
865 IAC 1-7-1	A	05-82	29 IR 665	
865 IAC 1-7-2	A	05-82	29 IR 666	
865 IAC 1-7-3	A	05-82	29 IR 666	
865 IAC 1-7-4	N	05-82	29 IR 667	
865 IAC 1-8-1	A	05-82	29 IR 667	
865 IAC 1-9-1	A	05-82	29 IR 668	
865 IAC 1-10-11	R	05-82	29 IR 687	
865 IAC 1-10-12	A	05-82	29 IR 668	
865 IAC 1-10-25	N	05-82	29 IR 668	
865 IAC 1-11-1	A	03-300	27 IR 2570	28 IR 605
	A	04-175	28 IR 1059	28 IR 2390
865 IAC 1-12-2	A	05-82	29 IR 668	
865 IAC 1-12-3	A	05-82	29 IR 669	
865 IAC 1-12-4	A	05-82	29 IR 670	
865 IAC 1-12-5	A	05-82	29 IR 670	
865 IAC 1-12-7	A	05-82	29 IR 671	
865 IAC 1-12-8	R	05-82	29 IR 687	
865 IAC 1-12-9	A	05-82	29 IR 672	
865 IAC 1-12-10	A	05-82	29 IR 672	
865 IAC 1-12-12	A	05-82	29 IR 672	
865 IAC 1-12-13	A	05-82	29 IR 674	
865 IAC 1-12-14	A	05-82	29 IR 675	
865 IAC 1-12-15	R	05-82	29 IR 687	
865 IAC 1-12-16	R	05-82	29 IR 687	
865 IAC 1-12-17	R	05-82	29 IR 687	
865 IAC 1-12-18	A	05-82	29 IR 676	
865 IAC 1-12-19	R	05-82	29 IR 687	
865 IAC 1-12-20	A	05-82	29 IR 677	
865 IAC 1-12-21	A	05-82	29 IR 677	
865 IAC 1-12-22	A	05-82	29 IR 678	
865 IAC 1-12-23	A	05-82	29 IR 679	
865 IAC 1-12-24	A	05-82	29 IR 679	
865 IAC 1-12-25	A	05-82	29 IR 680	
865 IAC 1-12-26	R	05-82	29 IR 687	
865 IAC 1-12-27	A	05-82	29 IR 681	
865 IAC 1-12-28	A	05-82	29 IR 681	
865 IAC 1-12-29	A	05-82	29 IR 682	
865 IAC 1-12-30	N	05-82	29 IR 682	
865 IAC 1-13-2	A	05-82	29 IR 684	
865 IAC 1-13-5	A	05-82	29 IR 684	
865 IAC 1-13-7	A	05-82	29 IR 685	
865 IAC 1-13-8	A	05-82	29 IR 685	
865 IAC 1-13-10	A	05-82	29 IR 685	
865 IAC 1-13-11	A	05-82	29 IR 686	
865 IAC 1-13-19	A	05-82	29 IR 686	
865 IAC 1-14-2	A	05-82	29 IR 686	
865 IAC 1-14-13	A	05-82	29 IR 686	
865 IAC 1-14-14	A	05-82	29 IR 687	
865 IAC 1-14-15	A	05-82	29 IR 687	
865 IAC 1-14-16	A	05-82	29 IR 687	

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TITLE 872 INDIANA BOARD OF ACCOUNTANCY				N	04-242	*ETR (28 IR 223)	
872 IAC 1-1-6.1	A	04-41	27 IR 2574	28 IR 212	N	04-243	*ETR (28 IR 224)
	A	04-171	27 IR 4138	28 IR 1182	N	04-244	*ETR (28 IR 226)
872 IAC 1-2-1	A	04-290	28 IR 3349		R	04-249	*ETR (28 IR 227)
872 IAC 1-3-3.3	A	04-98	27 IR 3336	28 IR 605	N	04-250	*ETR (28 IR 227)
872 IAC 1-3-16	A	04-5	27 IR 2335	28 IR 211	N	04-251	*ETR (28 IR 228)
872 IAC 1-6	N	03-270	27 IR 2571	*AROC (27 IR 4141)	N	04-265	*ETR (28 IR 613)
				28 IR 966	N	04-266	*ETR (28 IR 614)
					N	04-280	*ETR (28 IR 972)
TITLE 876 INDIANA REAL ESTATE COMMISSION				N	04-281	*ETR (28 IR 973)	
876 IAC 1-1-23	A	05-47	28 IR 2807	*CPH (28 IR 3609)	N	04-282	*ETR (28 IR 974)
876 IAC 1-4-2	A	05-101	28 IR 3658		N	04-301	*ETR (28 IR 1186)
876 IAC 2-18	N	03-256	27 IR 2575	28 IR 213	N	04-302	*ETR (28 IR 1187)
876 IAC 3-2-7	A	03-255	27 IR 2574	28 IR 212	N	04-303	*ETR (28 IR 1188)
876 IAC 3-6-2	A	04-225	28 IR 1547	28 IR 2717	N	04-304	*ETR (28 IR 1189)
876 IAC 3-6-3	A	04-225	28 IR 1548	28 IR 2717	N	04-305	*ETR (28 IR 1191)
876 IAC 4-1-6	A	05-49	28 IR 2808	*CPH (28 IR 3609)	N	04-306	*ETR (28 IR 1192)
876 IAC 4-2-1	A	05-49	28 IR 2809	*CPH (28 IR 3609)	N	04-326	*ETR (28 IR 1488)
876 IAC 4-3	N	05-49	28 IR 2809	*CPH (28 IR 3609)	N	04-327	*ETR (28 IR 1489)
					N	04-328	*ETR (28 IR 1491)
					N	04-331	*ETR (28 IR 1495)
TITLE 878 HOME INSPECTORS LICENSING BOARD				N	04-332	*ETR (28 IR 1496)	
878 IAC	N	04-191	28 IR 1060	*CPH (28 IR 1197)	N	05-6	*ETR (28 IR 1698)
				*AROC (28 IR 1560)	N	05-7	*ETR (28 IR 1701)
				28 IR 2718	N	05-8	*ETR (28 IR 1702)
TITLE 879 MANUFACTURED HOME INSTALLER LICENSING BOARD				N	05-9	*ETR (28 IR 1704)	
879 IAC	N	04-272	28 IR 1549	28 IR 2981	N	05-10	*ETR (28 IR 1704)
					N	05-16	*ETR (28 IR 1708)
TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS				N	05-17	*ETR (28 IR 1709)	
888 IAC 1.1-5-3	N	05-185	29 IR 688		N	05-29	*ETR (28 IR 2143)
888 IAC 1.1-6-1	A	04-74	27 IR 2875	28 IR 606	N	05-30	*ETR (28 IR 2144)
	A	04-137	27 IR 3704	28 IR 607	N	05-31	*ETR (28 IR 2145)
888 IAC 1.1-8-3	A	04-295	28 IR 1859	28 IR 3581	N	05-33	*ETR (28 IR 2150)
					N	05-34	*ETR (28 IR 2152)
					N	05-61	*ETR (28 IR 2395)
TITLE 898 INDIANA ATHLETIC TRAINERS BOARD				N	05-62	*ETR (28 IR 2397)	
898 IAC 1-1-2.4	RA	05-13	28 IR 2460	29 IR 144	N	05-63	*ETR (28 IR 2398)
898 IAC 1-1-4.5	RA	05-13	28 IR 2460	29 IR 144	N	05-64	*ETR (28 IR 2399)
898 IAC 1-1-10	RA	05-13	28 IR 2460	29 IR 144	N	05-65	*ETR (28 IR 2401)
					N	05-96	*ETR (28 IR 2740)
TITLE 905 ALCOHOL AND TOBACCO COMMISSION				N	05-97	*ETR (28 IR 2742)	
905 IAC 1-5.2-9.2	A	04-111	27 IR 3337	*AROC (28 IR 1561)	N	05-98	*ETR (28 IR 2743)
905 IAC 1-15.2-3	A	04-110	27 IR 3337	*AWR (28 IR 1486)	N	05-158	*ETR (28 IR 3311)
905 IAC 1-26-3	N	04-112	27 IR 3338	*AROC (28 IR 1562)	N	05-160	*ETR (28 IR 3315)
905 IAC 1-43	RA	04-14	27 IR 2579	*CPH (27 IR 3096)	N	05-169	*ETR (28 IR 3316)
				28 IR 1316	N	05-170	*ETR (28 IR 3318)
905 IAC 1-44	RA	04-109	27 IR 3343	28 IR 1316	N	05-186	*ETR (28 IR 3589)
905 IAC 1-45-2	A	03-319	27 IR 2576	*CPH (27 IR 3096)	N	05-187	*ETR (28 IR 3590)
				*AROC (28 IR 1317)	N	05-204	*ETR (28 IR 3590)
				28 IR 1484	N	05-205	*ETR (28 IR 3592)
905 IAC 1-45-3	A	03-319	27 IR 2576	*CPH (27 IR 3096)	N	05-206	*ETR (28 IR 3594)
				*AROC (28 IR 1317)	N	05-207	*ETR (28 IR 3595)
				28 IR 1484	N	05-208	*ETR (28 IR 3596)
905 IAC 1-46	N	03-279	27 IR 1291	*ARR (27 IR 4024)	N	05-238	*ETR (29 IR 33)
				*AROC (27 IR 4141)	N	05-239	*ETR (29 IR 34)
				28 IR 969	N	05-240	*ETR (29 IR 34)
905 IAC 1-48	N	04-115	27 IR 3339	*AROC (28 IR 1562)	N	05-241	*ETR (29 IR 37)
					N	05-242	*ETR (29 IR 38)
					N	05-243	*ETR (29 IR 40)
NONCODE RULES				N	05-278	*ETR (29 IR 557)	
Family and Social Services, Office of the Secretary of				N	05-279	*ETR (29 IR 558)	
	A	04-246		*ETR (28 IR 230)	N	05-280	*ETR (29 IR 559)
	A	05-283		*ETR (29 IR 573)	N	05-281	*ETR (29 IR 561)
Gaming Commission, Indiana				N	05-282	*ETR (29 IR 562)	
	N	05-84		*ETR (28 IR 2744)	N	05-292	*ETR (29 IR 563)
	N	05-202		*ETR (28 IR 3599)	N	05-298	*ETR (29 IR 565)
Lottery Commission, State				N	05-299	*ETR (29 IR 566)	
	N	04-238		*ETR (28 IR 217)	N	05-301	*ETR (29 IR 568)
	N	04-239		*ETR (28 IR 218)	N	05-302	*ETR (29 IR 569)
	N	04-240		*ETR (28 IR 219)	N		

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	N 05-303	*ETR (29 IR 569)	*Key:	
	N 05-304	*ETR (29 IR 570)	A:	Amended Text
	N 05-305	*ETR (29 IR 571)	AGA:	Attorney General's Action
Natural Resources Commission			AROC:	Administrative Rules Oversight Committee Notice
	N 04-205	*ERR (28 IR 214)	ARR:	Agency Recalls Rule
	R 04-245	*ETR (28 IR 230)	AWR:	Agency Withdrew Rule
		*ERR (28 IR 214)	CPH:	Change in Public Hearing
	R 04-247	*ETR (28 IR 230)	DAG:	Disapproved by Attorney General
	R 04-257	*ETR (28 IR 615)	DG:	Disapproved by Governor
	N 04-258	*ETR (28 IR 615)	ER:	Emergency Rule
	N 04-259	*ETR (28 IR 615)	ERR:	Errata
	N 04-260	*ETR (28 IR 616)	ETR:	Emergency Temporary Rule
	N 04-262	*ETR (28 IR 616)	ETS:	Emergency Temporary Standard
	N 04-264	*ETR (28 IR 616)	GRAT:	Governor Requires Additional Time
	N 04-285	*ETR (28 IR 981)	N:	New Text
	N 04-307	*ETR (28 IR 1192)	NRA:	Notice of Rule Adoption
	N 04-308	*ETR (28 IR 1194)	OAC:	Objection to Errata
	N 04-314	*ETR (28 IR 1194)	ON:	Other Notices of Administrative Action
	N 04-315	*ETR (28 IR 1195)	R:	Repealed Text
	N 05-44	*ETR (28 IR 2402)	RA:	Readopted Rule
	N 05-52	*ETR (28 IR 2402)	SAC:	Solicitation of Advance Comment
	N 05-53	*ETR (28 IR 2403)	SPE:	Statutory Period for Promulgation Expired
	N 05-56	*ETR (28 IR 2403)	SPE-SE:	Statutory Period for Promulgation Expired; Signed After
	N 05-59	*ETR (28 IR 2405)		Expiration
	N 05-131	*ETR (28 IR 2994)	††:	Renumbered or Added in Final Rule
	N 05-132	*ETR (28 IR 2994)		
	N 05-135	*ETR (28 IR 2994)		
	N 05-148	*ETR (28 IR 2994)		
	N 05-173	*ETR (28 IR 3319)		
	N 05-176	*ETR (28 IR 3601)		
	N 05-203	*ETR (28 IR 3604)		
	N 05-210	*ETR (28 IR 3605)		
	N 05-211	*ETR (28 IR 3606)		
	N 05-212	*ETR (28 IR 3608)		
		*ERR (28 IR 3582)		
	N 05-227	*ETR (29 IR 50)		
Personnel Department, State				
	N 05-289	*ETR (29 IR 550)		
Revenue, Department of State				
	N 05-188	*ETR (28 IR 3585)		
	N 05-273	*ETR (29 IR 551)		
Tax Review, Indiana Board of				
	N 04-261	*ETR (28 IR 612)		
	N 04-330	*ETR (28 IR 1487)		
	N 05-54	*ETR (28 IR 2394)		
	N 05-172	*ETR (28 IR 3310)		
	N 05-277	*ETR (29 IR 555)		

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

LEAD RULES		Testing procedures and standards		PARTICULATE MATTER LIMITATIONS FOR LAKE COUNTY	
Lead Emissions Limitations Compliance		326 IAC 13-1.1-8	26 IR 2063	326 IAC 6.8	28 IR 1766
326 IAC 15-1-4	26 IR 2083		28 IR 77		28 IR 3503
Source-specific provisions		Test reports; repair forms		Lake County: PM ₁₀ Emission Requirements	
326 IAC 15-1-2	26 IR 2080	326 IAC 13-1.1-13	26 IR 2064	ASF-Keystone, Inc.-Hammond	28 IR 3004
	28 IR 95		28 IR 79		
MOBILE SOURCE RULES		Waivers and compliance through diagnostic inspection		PARTICULATE RULES	
Transportation Conformity to Federal and State Implementation Plan		326 IAC 13-1.1-10	26 IR 2063	County Specific Particulate Matter Limitations	
Applicability; incorporation by reference of federal standards			28 IR 78	Marion County	
326 IAC 19-2-1	28 IR 3007	NITROGEN OXIDE RULES		326 IAC 6-1-12	28 IR 242
MONITORING REQUIREMENTS		Nitrogen Oxide Reduction Program for Internal Combustion Engines (ICE)		Vigo County	28 IR 2037
Continuous Monitoring of Emissions		326 IAC 10-5	28 IR 2803	326 IAC 6-1-13	27 IR 2318
Minimum performance and operating specifications		Nitrogen Oxide Reduction Program for Specific Source Categories			28 IR 115
326 IAC 3-5-2	26 IR 2017	Emissions limits		PERMIT REVIEW RULES	
	28 IR 32	326 IAC 10-3-3		Construction of New Sources	
Monitor system certification		Nitrogen Oxides Budget Trading Program		Exemption	
326 IAC 3-5-3	26 IR 2019	Applicability		326 IAC 2-5.1-1	27 IR 3144
	28 IR 33	326 IAC 10-4-1			28 IR 791
Quality assurance requirements		Compliance supplement pool		Registrations	
326 IAC 3-5-5	26 IR 2020	326 IAC 10-4-15		326 IAC 2-5.1-2	27 IR 3145
	28 IR 34	Definitions			28 IR 791
Standard operating procedures		326 IAC 10-4-2		Federally Enforceable State Operating Permit Program	
326 IAC 3-5-4	26 IR 2019	Individual opt-ins		Permit application	
	28 IR 34	326 IAC 10-4-13		326 IAC 2-8-3	26 IR 2008
Fuel Sampling and Analysis Procedures		NO _x allowance allocations			28 IR 22
Coal sampling and analysis methods		326 IAC 10-4-9		Minor Source Operating Permit Program	
326 IAC 3-7-2	26 IR 2024	NO _x allowance banking		Applicability	
	28 IR 38	326 IAC 10-4-14		326 IAC 2-6.1-2	27 IR 3149
Fuel oil sampling; analysis methods		Retired unit exemption			28 IR 795
326 IAC 3-7-4	26 IR 2025	326 IAC 10-4-3		Application requirements	
	28 IR 39	Nitrogen Oxides Control in Clark and Floyd Counties		326 IAC 2-6.1-4	27 IR 3149
General Provisions		Compliance procedures			28 IR 796
Conversion factors		326 IAC 10-1-5		Compliance schedule	
326 IAC 3-4-3	26 IR 2016			326 IAC 2-6.1-3	27 IR 3149
	28 IR 31	Definitions			28 IR 795
Definitions		326 IAC 10-1-2		Exemptions	
326 IAC 3-4-1	26 IR 2016			326 IAC 2-6.1-1	27 IR 3149
	28 IR 30	Emissions limits			28 IR 795
Source Sampling Procedures		326 IAC 10-1-4		Operating permit content	
Applicability; test procedures				326 IAC 2-6.1-5	27 IR 3150
326 IAC 3-6-1	26 IR 2022	Emissions monitoring			28 IR 796
	28 IR 36	326 IAC 10-1-6		Operating permit renewal	
Emission testing				326 IAC 2-6.1-7	27 IR 3154
326 IAC 3-6-3	26 IR 2022				28 IR 801
	28 IR 37	OPACITY REGULATIONS		Permit revisions	
Specific testing procedures; particulate matter; sulfur dioxide; nitrogen oxides; volatile organic compounds		Opacity Limitations		326 IAC 2-6.1-6	27 IR 3151
326 IAC 3-6-5	26 IR 2023	Compliance determination			28 IR 797
	28 IR 37	326 IAC 5-1-4		Part 70 Permit Program	
MOTOR VEHICLE EMISSION AND FUEL STANDARDS		Opacity limitations		Permit issuance, renewal, and revisions	
Motor Vehicle Inspection and Maintenance Requirements		326 IAC 5-1-2		326 IAC 2-7-8	26 IR 2006
Definitions					28 IR 20
326 IAC 13-1.1-1	26 IR 2062	Violations		Permit review by the U.S. EPA	
	28 IR 76	326 IAC 5-1-5		326 IAC 2-7-18	26 IR 2007
Facility and testing requirements					28 IR 21
326 IAC 13-1.1-14	26 IR 2065	PARTICULATE MATTER EXCEPT LAKE COUNTY LIMITATIONS		Requirement for a permit	
	28 IR 80	326 IAC 6.5		326 IAC 2-7-3	26 IR 2006
Facility quality assurance program		St. Joseph County			28 IR 20
326 IAC 13-1.1-16	26 IR 2066	Saint Mary's		Prevention of Significant Deterioration (PSD) Requirements	
	28 IR 80	326 IAC 6.5-7-13		Ambient air ceilings	
				326 IAC 2-2-16	26 IR 1999
					28 IR 20
				Area designation and redesignation	
				326 IAC 2-2-13	26 IR 1998
					28 IR 19

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Registrations		Surface coating or graphic arts operations		Shipbuilding or Ship Repair Operations in Clark, Floyd, Lake, and Porter Counties	
Applicability		326 IAC 2-9-3	27 IR 3156	Compliance requirements	
326 IAC 2-5.5-1	27 IR 3146		28 IR 802	326 IAC 8-12-5	26 IR 2052
	28 IR 792	Woodworking operations			28 IR 67
Application requirements		326 IAC 2-9-4	27 IR 3157	Definitions	
326 IAC 2-5.5-3	27 IR 3146		28 IR 803	326 IAC 8-12-3	26 IR 2050
	28 IR 793	STATE ENVIRONMENTAL POLICY			28 IR 64
Compliance schedule		General Conformity		Record keeping, notification, and reporting requirements	
326 IAC 2-5.5-2	27 IR 3146	Applicability; incorporation by reference of federal standards		326 IAC 8-12-7	26 IR 2054
	28 IR 793	326 IAC 16-3-1	26 IR 2084		28 IR 68
Public notice			28 IR 98	Test methods and procedures	
326 IAC 2-5.5-5	27 IR 3147	STRATOSPHERIC OZONE PROTECTION		326 IAC 8-12-6	26 IR 2053
	28 IR 794	General Provisions			28 IR 68
Registration content		Incorporation of federal regulations		Sinter Plants	
326 IAC 2-5.5-4	27 IR 3147	326 IAC 22-1-1	26 IR 2098	Test procedures	
	28 IR 793		28 IR 113	326 IAC 8-13-5	26 IR 2054
Source modification		SULFUR DIOXIDE RULES			28 IR 69
326 IAC 2-5.5-6	27 IR 3147	Compliance		Specific VOC Reduction Requirements for Lake, Porter, Clark, and Floyd Counties	
	28 IR 794	Reporting requirements; methods to determine compliance		Test methods and procedures	
Source Specific Operating Agreement Program		326 IAC 7-2-1	26 IR 2028	326 IAC 8-7-7	26 IR 2036
Abrasive cleaning operations			28 IR 42		28 IR 51
326 IAC 2-9-5	27 IR 3158		28 IR 632	Volatile Organic Liquid Storage Vessels	
	28 IR 805		28 IR 2953	Definitions	
Automobile refinishing operations		Emission Limitations and Requirements by County		326 IAC 8-9-3	26 IR 2037
326 IAC 2-9-11	27 IR 3164	Dearborn County sulfur dioxide emission limitations			28 IR 51
	28 IR 810	326 IAC 7-4-13	27 IR 2768	Exemptions	
Coal mines and coal preparation plants			28 IR 2021	326 IAC 8-9-2	26 IR 2036
326 IAC 2-9-10	26 IR 2013	Vigo County sulfur dioxide emission limitations			28 IR 51
	28 IR 27	326 IAC 7-4-3	27 IR 2319	Record keeping and reporting requirements	
	27 IR 3163		28 IR 117	326 IAC 8-9-6	26 IR 2042
	28 IR 809	Warrick County sulfur dioxide emission limitations			28 IR 56
Crushed stone processing plants		326 IAC 7-4-10	26 IR 2029	Standards	
326 IAC 2-9-8	26 IR 2010		28 IR 43	326 IAC 8-9-4	26 IR 2038
	28 IR 25	Lake County Sulfur Dioxide Emission Limitations			28 IR 52
	27 IR 3160	326 IAC 7-4.1	28 IR 633	Testing and procedures	
	28 IR 806		28 IR 2954	326 IAC 8-9-5	26 IR 2040
Degreasing operations		Sulfur Dioxide Emission Limitations			28 IR 54
326 IAC 2-9-12	27 IR 3165	Applicability		Wood Furniture Coatings	
	28 IR 811	326 IAC 7-1.1-1	28 IR 632	Compliance procedures and monitoring requirements	
External combustion sources			28 IR 2953	326 IAC 8-11-6	26 IR 2046
326 IAC 2-9-13	26 IR 2014	Sulfur dioxide emission limitations			28 IR 60
	28 IR 28	326 IAC 7-1.1-2	28 IR 632	Definitions	
	27 IR 3165		28 IR 2953	326 IAC 8-11-2	26 IR 2044
	28 IR 811	VOLATILE ORGANIC COMPOUND RULES			28 IR 59
General provisions		Automobile Refinishing		Test procedures	
326 IAC 2-9-1	27 IR 3155	Test procedures		326 IAC 8-11-7	26 IR 2050
	28 IR 801	326 IAC 8-10-7	26 IR 2044		28 IR 64
Grain elevators			28 IR 58	ALCOHOL AND TOBACCO COMMISSION	
326 IAC 2-9-6	27 IR 3159	General Provisions		GENERAL PROVISIONS	
	28 IR 805	Testing procedures		Minors	
Industrial or commercial surface coating operations not subject to 326 IAC 8-2; graphic arts operation not subject to 326 IAC 8-5-5		326 IAC 8-1-4	26 IR 2030	Loitering	
326 IAC 2-9-2.5	27 IR 3156		28 IR 44	905 IAC 1-15.2-3	27 IR 3337
	28 IR 802	Petroleum Sources		Permit Renewal; Letter of Extension	
Internal combustion sources		Gasoline dispensing facilities		Revocation of letter of extension	
326 IAC 2-9-14	27 IR 3167	326 IAC 8-4-6	26 IR 2032	905 IAC 1-26-3	27 IR 3338
	28 IR 814		28 IR 47	Tobacco Retail Sales Certificates	
Ready-mix concrete batch plants		Leaks from transports and vapor collection systems; records		905 IAC 1-46	27 IR 1291
326 IAC 2-9-9	26 IR 2011	326 IAC 8-4-9	26 IR 2035		28 IR 969
	28 IR 26		28 IR 49	Tracking Beer Kegs	
	27 IR 3162			Identification markers	
	28 IR 808			905 IAC 1-45-2	27 IR 2576
Sand and gravel plants					28 IR 1484
326 IAC 2-9-7	26 IR 2009				
	28 IR 23				
	27 IR 3159				
	28 IR 805				

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Receipt for the keg 905 IAC 1-45-3	27 IR 2576 28 IR 1484	EQUINE Contagious Equine Metritis (CEM) 345 IAC 6-2	28 IR 1000 28 IR 2353	ARCHITECTS AND LANDSCAPE ARCHITECTS, BOARD OF REGISTRATION FOR REGISTRATION; CODE OF CONDUCT FOR ARCHITECTS
Trade Practices; Permissible Activity Between Primary Sources of Supply, Wholesalers, and Retailers		LIVESTOCK DEALERS, MARKETING, EXHIBITIONS, AND SLAUGHTER LIVESTOCK		Continuing Education
Samples; consumer product sampling 905 IAC 1-5-2.9.2	27 IR 3337	Exhibition of Domestic Animals and Poultry		Continuing education 804 IAC 1.1-8
Withdrawal of Consent to Transfer Permit 905 IAC 1-48	27 IR 3339	Pseudorabies tests for swine 345 IAC 7-5-15.1	27 IR 2797 28 IR 559	General Provisions Definitions and abbreviations 804 IAC 1.1-1-1
ANIMAL HEALTH, INDIANA STATE BOARD OF		Tuberculosis control in cattle and bison 345 IAC 7-5-12	27 IR 4135 28 IR 2687	28 IR 1054 28 IR 2377
DAIRY PRODUCTS		Vaccinations and tests required for dogs and cats 345 IAC 7-5-22	27 IR 2798 28 IR 559	ATTORNEY GENERAL'S OPINIONS (See Cumulative Table of Executive Orders and Attorney General's Opinions at 28 IR 2301)
Drug Residues and Other Adulterants		Exhibitions 345 IAC 7-4-5	28 IR 1820 28 IR 3556	BOXING COMMISSION, STATE
Drug residues 345 IAC 8-4-1	28 IR 1830 28 IR 3566	MEAT AND MEAT PRODUCTS INSPECTION		BOXING AND OTHER RING EXHIBITIONS
Production, Handling, Processing, Packaging, and Distribution of Milk and Milk Products		Cooperation with Federal Programs		Contestants
Abnormalities of milk 345 IAC 8-2-1.6	28 IR 1824 28 IR 3560	Federal-state programs 345 IAC 9-20-2	28 IR 3649	Athletic costumes and protective equipment 808 IAC 2-1-5
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Instant Game 768		LSA Document #05-158(E)	28 IR 3311		28 IR 204
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Instant Game 771		LSA Document #05-63(E)	28 IR 2398	844 IAC 6-3-6	27 IR 1638
LSA Document #05-243(E)	29 IR 40	Scratch-Off Game 755			28 IR 205
Instant Game 773		65 IAC 4-355	28 IR 2147	Temporary permits	
LSA Document #05-241(E)	29 IR 37	Scratch-Off Game 757		844 IAC 6-3-5	27 IR 1637
Scratch-Off Game 723		LSA Document #05-96(E)	28 IR 2740		28 IR 205
LSA Document #04-238(E)	28 IR 217	Scratch-Off Game 759		General Provisions	
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LSA Document #04-239(E)	28 IR 218	Scratch-Off Game 760		844 IAC 6-1-4	27 IR 1635
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65 IAC 4-348	28 IR 221	Scratch-Off Game 764			28 IR 209
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LSA Document #04-242(E)	28 IR 223	Scratch-Off Game 765		Reinstatement of delinquent license	
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65 IAC 4-350	28 IR 229	Scratch-Off Game 770			
Scratch-Off Game 730		LSA Document #05-204(E)	28 IR 3590		
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312 IAC 9-3-12	27 IR 1949	312 IAC 9-5-11	27 IR 1956	312 IAC 9-11-14	27 IR 1965
	28 IR 539		28 IR 546		28 IR 555
	29 IR 621		29 IR 624		
General requirements for deer; exemptions; tagging; tree blinds; maximum taking of antlered deer in a calendar year		Restrictions and Standards Applicable to Wild Animals		GREAT LAKES BASIN WATER MANAGEMENT	
LSA Document #04-259(E)	28 IR 615	Fishing, hunting, and trapping without a license by owners and lessees of farmland		312 IAC 6.2	27 IR 3119
LSA Document #04-260(E)	28 IR 616	312 IAC 9-2-14	29 IR 618		28 IR 1459
LSA Document #05-211(E)	28 IR 3606	Possession of endangered species of mammals, nonmigratory birds, reptiles, amphibians, fish, and crayfish		LAKE CONSTRUCTION ACTIVITIES	
312 IAC 9-3-2	27 IR 1946	312 IAC 9-2-15	28 IR 1522	Definitions	
	28 IR 536			“Area of special concern” defined	
	29 IR 619	Sale of endangered species		312 IAC 11-2-2	28 IR 2767
Hunting deer by bow and arrows		312 IAC 9-2-14	28 IR 1522	“Bulkhead seawall” defined	
LSA Document #04-285(E)	28 IR 981	Taking, chasing, and possessing wild animals		312 IAC 11-2-5	28 IR 1521
312 IAC 9-3-4	27 IR 1948	312 IAC 9-2-1	29 IR 618		28 IR 2660
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